

**SUMMARY REPORT**  
CHICAGO POLICE DEPARTMENT

LOG NO

1081642

TYPE

CR, U, CONF

DATE OF REPORT

14-SEP-2017

INSTRUCTIONS: SUBMIT ORIGINAL AND 3 COPIES IF ASSIGNED TO SAME UNIT AS ACCUSED.  
SUBMIT ORIGINAL AND 4 COPIES IF NOT ASSIGNED TO SAME UNIT AS

TO:  CHIEF ADMINISTRATOR,  
INDEPENDENT POLICE REVIEW AUTHORITY

CHIEF,  
BUREAU OF INTERNAL AFFAIRS

FROM - INVESTIGATOR'S NAME	RANK	STAR NO	EMPLOYEE NO	UNIT ASSIGNED	UNIT DETAILED
WHITE, LAKENYA	0422			113	

REFERENCE NOS.(LIST ALL RELATED C.L., C.B., I.R., INVENTORY NOS., ETC., PERTINENT OF THIS INVESTIGATION)

INCIDENT ADDRESS: 7400 S. MERRILL AVE, CHICAGO, IL 60649	DATE / TIME: 28-JUL-2016 19:07	BEAT: 333
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### ACCUSED

NAME	RANK	STAR NO	EMP NO	UNIT ASSIGNED	UNIT DETAILED	SEX/RACE	DOB	APPOINTED DATE	ON DUTY ?	SWORN ?
TORRES, JOSE O	9161	3783	[REDACTED]	004	172	M / WWH	[REDACTED]-1981	15-MAR-2013	YES	YES
COUGHLIN JR, MICHAEL P	9161	16614	[REDACTED]	004	172	M / WHI	[REDACTED]-1979	27-MAY-2014	YES	YES
DIAZ, JOSE R	9161	15610	[REDACTED]	004	172	M / WWH	[REDACTED]-1979	05-OCT-2012	YES	YES
BAKER, MOHAMMAD	9161	19740	[REDACTED]	004		M / WHI	[REDACTED]-1986	01-APR-2013	YES	YES

### REPORTING PARTY

NAME	ADDRESS*	CITY	TELEPHONE	SEX / RACE	DOB / AGE
PENA, MARIA	RANK: 9796, STAR NO: 309, EMP NO: [REDACTED]	[REDACTED]	[REDACTED]	F / S	[REDACTED] 1964 / 53

### VICTIMS

NAME	ADDRESS*	CITY	TELEPHONE	SEX / RACE	DOB / AGE
O'NEAL, PAUL	[REDACTED]	CHICAGO, IL	[REDACTED]	M / BLK	[REDACTED] 1998 / 19
WILLIAMS, MICHAEL	[REDACTED]	CHICAGO, IL	[REDACTED]	M / BLK	[REDACTED] 1999 / 18

### WITNESSES

NAME	ADDRESS*	CITY	TELEPHONE	SEX / RACE	DOB / AGE
WOJTAN, KENNETH	RANK: 9161, STAR NO: , EMP NO: [REDACTED]	[REDACTED]	[REDACTED]	M / WHI	[REDACTED] 1957 / 59
DARLING, PATRICK	RANK: 9165, STAR NO: 20241, EMP NO: [REDACTED]	[REDACTED]	[REDACTED]	M / WHI	[REDACTED] 1982 / 35
LANNING, DENNIS	RANK: 9161, STAR NO: 11945, EMP NO: [REDACTED]	[REDACTED]	[REDACTED]	M / WHI	[REDACTED] 1980 / 37
PASSARELLI, DANIEL	RANK: 9161, STAR NO: 11574, EMP NO: [REDACTED]	[REDACTED]	[REDACTED]	M / WHI	[REDACTED] 1984 / 32
PASCHAL, CHRISTOPHER	RANK: 9161, STAR NO: 11996, EMP NO: [REDACTED]	[REDACTED]	[REDACTED]	M / BLK	[REDACTED] 1979 / 38
TAYLOR-DUDLEY, LATISHA	RANK: 9161, STAR NO: 18768, EMP NO: [REDACTED]	[REDACTED]	[REDACTED]	F / BLK	[REDACTED] 1982 / 35
BRAUN, ANDREW	RANK: 9161, STAR NO: 4076, EMP NO: [REDACTED]	[REDACTED]	[REDACTED]	M / WHI	[REDACTED] 1976 / 40
FONSECA, ARTURO	RANK: 9161, STAR NO: 10739, EMP NO: [REDACTED]	[REDACTED]	[REDACTED]	M / WWH	[REDACTED] 1976 / 41
MONTILLA, OBERRIAN	RANK: 9161, STAR NO: 13985, EMP NO: [REDACTED]	[REDACTED]	[REDACTED]	F / BLK	[REDACTED] 1971 / 46
RAUBA, EDWARD	RANK: 9161, STAR NO: 17208, EMP NO: [REDACTED]	[REDACTED]	[REDACTED]	M / WHI	[REDACTED] 1984 / 33
HYPTA, SZYMON	RANK: 9161, STAR NO: 3117, EMP NO: [REDACTED]	[REDACTED]	[REDACTED]	M / WHI	[REDACTED] 1988 / 29
MONTES, JACQUELINE	RANK: 9160, STAR NO: 4155, EMP NO: [REDACTED]	[REDACTED]	[REDACTED]	F / WWH	[REDACTED] 1986 / 31
GALLEGOS, RICARDO	RANK: 9161, STAR NO: 19936, EMP NO: [REDACTED]	[REDACTED]	[REDACTED]	M / WWH	[REDACTED] 1981 / 35
	7343 S. MERRILL AVE CHICAGO, IL	[REDACTED]	[REDACTED]	M / BLK	[REDACTED] 1958 / 59
	7337 S. MERRILL AVE CHICAGO, IL	[REDACTED]	[REDACTED]	F / BLK	/
LAWSON, JEFFREY	RANK: 9161, STAR NO: 8353, EMP NO: [REDACTED]	[REDACTED]	[REDACTED]	M / WHI	[REDACTED] 1979 / 38



INDEPENDENT POLICE REVIEW AUTHORITY

Log #1081642/ U#16-015

**REFERENCE:** RD# HZ368777 (Aggravated Battery to Police Officer)

RD# HZ368887 (Traffic Crash)

RD# HZ369157 (Death Investigation)

RD# HZ369170 (Non-Criminal Foreign Recovery: Automobile)

**INVOLVED**

**OFFICER #1:**

COUGHLIN JR., Michael; Star #16614; Assigned to Unit 004; Beat 406C; Caucasian male; Employee # [REDACTED]; DOB: [REDACTED] 1979; DOA: 27 May 2014; On-duty; Uniform.

**OFFICER #1's**

**WEAPON:**

Glock; Model 19; 9 MM semi-automatic pistol; Serial #XGT433; Chicago Registration #R035051S; FOID #17070463; 17-round capacity magazine (total weapon capacity 17+1); WIN 9MM Luger +P ammunition; Nine (9) live rounds recovered from firearm; Fired (9) nine rounds.

**OFFICER #1's**

**INJURIES:**

None reported.

**INVOLVED**

**OFFICER #2:**

TORRES, Jose; Star #3783; Assigned to Unit 004; Beat 406C; Hispanic male; Employee # [REDACTED]; DOB: [REDACTED] 1981; DOA: 15 March 2013; On-duty; Uniform.

**OFFICER #2's**

**WEAPON:**

Glock; Model 17; 9MM semi-automatic pistol; Serial #PMR357; Chicago Registration #R020880S; FOID #16991469; 17-round capacity magazine (total weapon capacity 17+1); WIN 9MM Luger +P ammunition and WIN 9MM Luger ammunition; Seventeen (17) live rounds recovered from firearm; Fired (1) one round.

**OFFICER #2's**

**INJURIES:**

None reported.

**INVOLVED**

**OFFICER #3:**

DIAZ, Jose; Star #15610; Assigned to Unit 004; Beat 406B; Hispanic male; Employee # [REDACTED]; DOB: [REDACTED] 1979; DOA: 05 October 2012; On-duty; Uniform.

**OFFICER #3's**

**WEAPON:**

Glock; Model 17; 9MM semi-automatic pistol; Serial #TBG838; Chicago Registration #R0287875S; FOID #95180740; 17-round capacity magazine (total weapon capacity 17+1); WIN 9MM Luger +P ammunition; Thirteen (13) live rounds recovered from firearm; Fired (5) five rounds.



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**OFFICER #3's**

**INJURIES:** Bruising to the leg.

**WITNESS**

**OFFICER:**

BAKER, Mohammad, M/W; Star #19740; Unit 004; Beat 406B;  
Employee # [REDACTED]; DOB: [REDACTED] 1986; DOA: 01 April 2013; On-duty, Uniform.

**WITNESS**

**OFFICER'S**

**INJURIES:**

Multiple, unspecified injuries relating to the car accident.

**SUBJECT:**

[REDACTED]; Black male; DOB: [REDACTED] 1998; [REDACTED];  
IR# [REDACTED].

**SUBJECT'S**

**INJURIES:**

Fatal; Single gunshot wound to the lower mid-back; Subject was pronounced DOA at [REDACTED] on 28 July 2016, at 2108 hours, by [REDACTED].

**SUBJECT'S**

**WEAPON:**

None Recovered.

**SUBJECT'S**

**VEHICLE:**

2002 Black Jaguar Convertible; License Plate # [REDACTED].

**CIVILIAN**

**WITNESS:**

[REDACTED]; Black male; DOB: [REDACTED] 1999; [REDACTED];  
IR# [REDACTED].

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Log #1081642/ U#16-015

**REFERENCE:** RD# HZ368777 (Aggravated Battery to Police Officer)  
RD# HZ368887 (Traffic Crash)  
RD# IIZ369157 (Death Investigation)  
RD# HZ369170 (Non-Criminal Foreign Recovery: Automobile)

**INVOLVED**

**OFFICER #1:**

COUGHLIN JR., Michael; Star #16614; Assigned to Unit 004; Beat 406C; Caucasian male; Employee # [REDACTED]; DOB: [REDACTED] 1979; DOA: 27 May 2014; On-duty; Uniform.

**OFFICER #1's**

**WEAPON:**

Glock; Model 19; 9 MM semi-automatic pistol; Serial #XGT433; Chicago Registration #R035051S; FOID #17070463; 17-round capacity magazine (total weapon capacity 17+1); WIN 9MM Luger +P ammunition; Nine (9) live rounds recovered from firearm; Fired (9) nine rounds.

**OFFICER #1's**

**INJURIES:**

None reported.

**INVOLVED**

**OFFICER #2:**

TORRES, Jose; Star #3783; Assigned to Unit 004; Beat 406C; Hispanic male; Employee # [REDACTED]; DOB: [REDACTED]; DOA: 15 March 2013; On-duty; Uniform.

**OFFICER #2's**

**WEAPON:**

Glock; Model 17; 9MM semi-automatic pistol; Serial #PMR357; Chicago Registration #R020880S; FOID #16991469; 17-round capacity magazine (total weapon capacity 17+1); WIN 9MM Luger +P ammunition and WIN 9MM Luger ammunition; Seventeen (17) live rounds recovered from firearm; Fired (1) one round.

**OFFICER #2's**

**INJURIES:**

None reported.

**INVOLVED**

**OFFICER #3:**

DIAZ, Jose; Star #15610; Assigned to Unit 004; Beat 406B; Hispanic male; Employee # [REDACTED]; DOB: [REDACTED] 1979; DOA: 05 October 2012; On-duty; Uniform.

**OFFICER #3's**

**WEAPON:**

Glock; Model 17; 9MM semi-automatic pistol; Serial #TBG838; Chicago Registration #R0287875S; FOID #95180740; 17-round capacity magazine (total weapon capacity 17+1); WIN 9MM Luger +P ammunition; Thirteen (13) live rounds recovered from firearm; Fired (5) five rounds.

**I. INTRODUCTION:**

On 28 July 2016, at approximately 1929 hours, Officers Coughlin and Torres, who were working Beat 406C, responded to the area of 75th Street and Merrill Avenue in a marked Chicago Police Department (CPD) SUV, license plate number "MP11071." According to dispatch reports, a stolen Jaguar, license plate number "████████," had been observed in the area. As Officers Torres and Coughlin drove southbound onto Merrill Avenue from 74th Street, they spotted the Jaguar driving northbound on the 7400 block of South Merrill Avenue in their direction. Officers Torres and Coughlin immediately parked and started to exit their SUV as the Jaguar continued to approach. Almost simultaneously upon exiting the vehicle, Officer Coughlin discharged his firearm at the Jaguar. The driver of the Jaguar, now known as █████, drove between a parked vehicle, Ford Expedition license plate number "████████," and the officers' parked SUV. As the Jaguar drove between the Ford Expedition and the officers' SUV, Officer Torres exited the driver side of the SUV. Officer Coughlin continued to discharge his firearm at the Jaguar as he walked around the front of the SUV while Officer Torres jumped onto the east parkway of the 7400 block of South Merrill Avenue to avoid being struck by the Jaguar.

As the Jaguar continued to travel northbound on Merrill Avenue, Officer Coughlin continued to discharge his firearm and Officer Torres discharged his firearm once. The Jaguar continued to drive northbound towards the 7300 block of South Merrill Avenue at an increased rate of speed. Officer Coughlin stopped shooting and reloaded his weapon. Within moments, the Jaguar collided head on with Beat406B, a marked CPD SUV with license plate number "MP9186," driven by Officer Diaz with Officer Baker riding as passenger. Officers Coughlin and Torres ran towards the collision and observed █████ exit the driver side of the Jaguar and flee west towards the backyards of the houses along the 7300 block of South Merrill Avenue. Officer Baker exited his CPD SUV and started to pursue █████; Officers Coughlin and Torres followed Officer Baker. As █████ fled westbound, he ran to the backyard of █████ S. Merrill Avenue and jumped over a tall gate. █████ then proceeded to flee northbound through the backyards along the 7300 block of South Merrill Avenue.

When Officers Baker, Coughlin, and Torres arrived at the same gate, they observed that the gate was locked. Officer Coughlin assisted Officer Baker with getting over the gate. Meanwhile, Officer Diaz exited the front passenger side of the Beat 406B CPD SUV and ran west down the driveway at █████ S. Merrill Avenue in an attempt to cut off █████'s flight path. As Officer Diaz ran west through the driveway, he observed █████ fleeing northbound. Officer Diaz discharged his firearm several times striking █████ once. █████ continued to flee into the backyard of █████ S. Merrill Avenue where he was then placed into custody. An ambulance responded to the scene and transported █████ to █████ where he was pronounced deceased. The passenger of the Jaguar, █████, was unsuccessful in his attempt to flee and was arrested. No weapon was recovered on the scene, in the Jaguar, or from █████ or █████.

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**II. ALLEGATIONS:**

It is alleged that on 28 July 2016, at approximately 1930 hours, at or near █ S. Merrill Avenue, **the accused, Officer Michael Coughlin, Jr. #16614, Emp. #█, Unit 004/172**, violated department policy when he:

- 1) Fired his weapon at or in the direction of █, in violation of Rule 6;
- 2) Fired his weapon at or in the direction of █, in violation of Rule 6;
- 3) Fired his weapon at and into a moving vehicle, in violation of Rule 6;
- 4) Fired his weapon in the direction of Officer Torres, in violation of Rule 10;
- 5) Fired his weapon in the direction of Officer Baker, in violation of Rule 10;
- 6) Fired his weapon in the direction of Officer Diaz, in violation of Rule 10; and
- 7) Stated words to the effect of, "Fuck, man I'm gonna be on the desk for thirty goddamn days now. Fucking desk duty for thirty days now. Motherfucker. I shot," in violation of Rule 2.

It is alleged that on 28 July 2016, at approximately 1930 hours, at or near █ S. Merrill Avenue, **the accused, Officer Jose Torres, #3783, Emp. #█, Unit 004/172**, violated department policy when he:

- 1) Used his police vehicle to obstruct the passage of another motor vehicle, in Violation of Rule 6;
- 2) Fired his weapon at or in the direction of █, in violation of Rule 6;
- 3) Fired his weapon at or in the direction of █, in violation of Rule 6;
- 4) Fired his weapon at and into a moving vehicle, in violation of Rule 6;
- 5) Fired his weapon in the direction of Officer Baker, in violation of Rule 10;
- 6) Fired his weapon in the direction of Officer Diaz, in violation of Rule 10; and
- 7) Loaded his Glock, model 17, bearing serial #PMR357, with mismatched ammunition, in violation of Rule 10.

It is alleged that on 28 July 2016, at approximately 1930 hours, at or near █ S. Merrill Avenue, **the accused, Officer Jose Diaz, #15610, Emp. #█, Unit 004/172**, violated department policy when he:

- 1) Fired his weapon at or in the direction of █, in violation of Rule 6;
- 2) Kicked █, in violation of Rule 8 and 9;
- 3) Directed words towards █ to the effect of, "Bitch ass motherfucker," in violation of Rule 8 and 9; and
- 4) Failed to activate his body camera, in violation of Rule 6.

It is alleged that on 28 July 2016, at approximately 1930 hours, at or near █ S. Merrill Avenue, **the accused, Officer Mohammad Baker, #19740 Emp. #█, Unit 004**, violated department policy when he:

- 1) Failed to activate his body camera, in Violation of Rule 6.

**III. SUMMARY OF INVESTIGATION:**

**A. Interviews**

**1. Witness Officer Interviews:**

In a statement to IPRA on 20 September 2016, **Witness Officer Kenneth Wojtan** stated that, while on duty on 28 July 2016, he and his partner, Officer Jeffrey Lawson, heard via police radio that officers had spotted a Jaguar that had been reported stolen. Officer Wojtan, who was the driver officer, drove in an unmarked police vehicle, in the direction of where the Jaguar was seen in order to assist. As Officer Wojtan approached the area of 75th and Paxton, he and Officer Lawson observed a vehicle that matched the description of the stolen Jaguar approaching in the opposite direction with two occupants, now known as [REDACTED] and [REDACTED]. Two police officers<sup>1</sup> in a CPD SUV,<sup>2</sup> who Officer Wojtan did not know, were driving behind the Jaguar and one of the officers in the SUV pointed to the Jaguar. Officer Wojtan made a U-turn and drove behind the CPD SUV. The Jaguar made a right turn onto Merrill Avenue followed by a series of turns, traveling approximately 20-35 miles per hour. The Jaguar circled back around to Merrill Avenue and proceeded northbound at a high rate of speed followed by the two police vehicles.

According to Officer Wojtan, the SUV came to a sudden stop. Officer Wojtan could not see the Jaguar because the SUV blocked Officer Wojtan's view. Officer Wojtan heard several gunshots while sitting in his vehicle. Officer Wojtan did not know who was shooting because he could not see. Officer Wojtan proceeded to drive up the west parkway of the 7400 block of South Merrill Avenue. Moments later, Officer Wojtan heard a loud "boom" and observed smoke/dust coming from the area of a CPD vehicle and the Jaguar. Officer Wojtan saw signs of an accident, but he did not witness how the accident occurred.

At that time, Officer Wojtan observed several people running, but he could not decipher whether any of them were police officers. Officer Lawson exited the vehicle while Officer Wojtan drove to the mouth of the alley at 74th and Merrill Avenue and exited his vehicle. Officer Wojtan started to run north through the alley and heard approximately five gunshots. Officer Wojtan stopped at approximately [REDACTED] S. Merrill Avenue and observed two uniformed officers that he did not know in the alley.

One of the officers stated, "There he is," and pointed to the backyard of [REDACTED] S. Merrill Avenue. Officer Wojtan and the officers went into the yard and observed a male subject, [REDACTED], sitting on the ground with his back up against the home. The officers ordered [REDACTED] to lie down on his stomach. [REDACTED] did not comply initially, but after receiving several more commands, [REDACTED] laid on the ground. Officer Wojtan handcuffed [REDACTED] and realized that [REDACTED] was bleeding. An officer on scene requested an ambulance and paramedics arrived and rendered aide to [REDACTED]. (Att. 317)

In a statement to IPRA on 22 August 2016, **Witness Officer Jeffrey Lawson** stated that on the 28 July 2016, he and his partner, Officer Wojtan, were on a directed mission to monitor

<sup>1</sup> The officers are now known as Officers Darling and Passarelli.

<sup>2</sup> Officer Wojtan described the vehicle as an Expedition. The vehicle was a silver unmarked Ford SUV.

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radio calls and assist with high priority jobs on the east side of the 4th District. As Officers Lawson and Wojtan were en route to their deployment area, the dispatcher announced that there was a Jaguar in the area wanted for a reason unbeknownst to Officer Lawson. An unknown officer reported that the Jaguar was last seen in the area of 77th and Colfax Avenue. As Officer Wojtan drove east on 75th Street, Officer Lawson observed the Jaguar heading west and approaching Merrill Avenue. Officer Lawson also observed a silver or gray unmarked CPD Ford SUV<sup>3</sup> driving behind the Jaguar. The officers in the silver or gray SUV, who Officer Lawson identified as Officers Darling and Passarelli, pointed at the Jaguar. Officer Wojtan then made a U-turn and drove behind Officers Darling and Passarelli.

The Jaguar turned north onto Merrill Avenue, turned east through an alley, turned south onto Paxton Avenue, turned west onto 75th Street, and finally turned north again onto Merrill Avenue. As the Jaguar proceeded north on Merrill Avenue, Officer Lawson observed a marked CPD vehicle, Beat 406C, at 74th Street driving south on Merrill Avenue towards the Jaguar. Officer Lawson stated that the driver officer of Beat 406C, Officer Torres, exited his vehicle and was nearly struck by the Jaguar as it drove past. Simultaneously, Officer Lawson saw Officer Torres discharge his firearm. Officer Lawson stated that he heard multiple gunshots and it sounded like more than one person was shooting, but he did not see anyone else shooting.<sup>4</sup>

At that time, Officers Darling and Passarelli exited their vehicle, so Officer Wojtan drove onto the curb to go around. The Jaguar continued northbound and struck a second marked squad car head on.<sup>5</sup> Subsequently, the driver of the Jaguar, [REDACTED] fled from the vehicle and ran westbound into a residential yard. Officer Lawson ran to the west alley of the 7300 block of Merrill in an attempt to intercept [REDACTED] in the alley. As Officer Lawson arrived at the alley, he heard five additional gunshots. Officer Lawson stated that he could not see who was shooting as there were several fences obstructing his view. A short time later, Officer Lawson heard someone announce that [REDACTED] was in custody in one of the yards.<sup>6</sup>

Officer Lawson went to [REDACTED] S. Merrill Avenue and spotted Officer Baker. Officer Lawson checked Officer Baker for injuries and asked him if he was okay. Officer Lawson noted that Officers Wojtan, Passarelli, Darling, and a Hispanic officer, whose last name was possibly Diaz, were also in the yard. [REDACTED] was lying on the ground in handcuffs and appeared to be bleeding from his left flank area. [REDACTED]'s eyes were open and he was responsive. Officer Lawson performed a pat down of [REDACTED] and asked him his name. After an ambulance was requested and Officer Lawson determined everyone was okay, Officer Lawson searched the area for contraband, drugs, and guns. Officer Lawson spoke with the detectives on scene and ultimately went back to the detective division to give a statement. (Att. 309)

In a statement to IPRA on 11 August 2016, **Witness Officer Daniel Passarelli #11574**, stated that on 28 July 2016, he and his partner, Officer Darling, were in the vicinity of 8200 S.

<sup>3</sup> Officer Lawson described the vehicle as an Explorer.

<sup>4</sup> Officer Lawson stated that his view was partially obstructed by the gray/ silver Ford Explorer that was stopped in front of his and Officer Wojtan's vehicle.

<sup>5</sup> Officer Lawson identified one of the officers in the second marked squad car as Officer Mohammad Baker.

<sup>6</sup> Now known as [REDACTED] S. Merrill Avenue.

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Muskegon Avenue when they heard a flash message over the radio related to a stolen Jaguar. At the same time, they heard a call about a stolen BMW. Officer Darling, who was driving the unmarked squad car, believed that he had observed the stolen Jaguar cross their path going westbound on 75th Street. Officer Darling asked the dispatcher for the license plate number of the stolen Jaguar and confirmed that the vehicle was stolen. Officers Passarelli and Darling then observed the Jaguar turn right onto Merrill Avenue and then made another right down an alley and then returned to the original location on 75th Street.<sup>7</sup> Officers Passarelli and Darling started to follow the Jaguar. Officer Passarelli recalled that the Jaguar was not traveling any faster than 25 miles per hour.

As the Jaguar traveled northbound on Merrill Avenue, Officer Passarelli observed a police vehicle<sup>8</sup> traveling southbound on Merrill Avenue. At this time, the Jaguar struck the driver's side of Officers Coughlin and Torres vehicle and continued to drive pass the vehicle. Officer Passarelli then heard several gunshots. Officer Passarelli did not know who was firing their weapon or who the shots were being fired at. The Jaguar continued driving northbound on Merrill Avenue and struck a second squad car<sup>9</sup> that was driving southbound. The driver, [REDACTED], of the Jaguar exited the driver's side of the vehicle and began running westbound. Officer Darling continued driving and turned west on 74th Street and went down the first north alley. Officers Passarelli and Darling exited the vehicle to locate [REDACTED], at which time they heard several more gunshots.

Officer Passarelli then entered the yard, [REDACTED] S. Merrill Avenue, where he believed [REDACTED] ran into and observed [REDACTED] attempt to enter someone's home. Additional officers entered the yard, got [REDACTED] on the ground and placed him into custody. Officer Passarelli stated he observed blood on [REDACTED]'s back, but he did not know the source of the injury. (Att. 288)

In a statement to IPRA on 10 August 2016, **Witness Officer Patrick Darling #7134**, stated that on 28 July 2016, he was assigned to Beat 6721C. Officer Darling was the driver of an unmarked police vehicle and his partner was Officer Daniel Passarelli. The officers were in the 4th District attempting to locate a wanted offender for a shooting in the 7th district. While officers were in the vicinity of 77th Street and Muskegon Avenue, Officer Darling heard flash messages regarding a wanted Jaguar and officers losing sight of the vehicle in the vicinity of 75th and Yates Avenue. Officer Darling and his partner began to tour the area and noticed numerous police cars in the area. Around 75<sup>th</sup> Street, East of Merrill Avenue, Officer Darling observed the Jaguar in front of his police vehicle. Officer Darling stated that he did not notice it right away because the driver of the Jaguar, [REDACTED], was going at a "normal controlled manner." The Jaguar matched the description and Officer Darling asked dispatch for the license plate number. When dispatch confirmed the plate number, Officer Darling issued a flash message notifying the dispatcher that the stolen Jaguar was headed westbound on 75th Street.

Officer Darling continued to follow without lights or sirens. The Jaguar turned northbound onto Merrill Avenue, entered the north alley of 75th Street, and then southbound on

<sup>7</sup> Officer Passarelli described the route as a circle.

<sup>8</sup> Officers Coughlin and Torres marked squad car, Beat #406C.

<sup>9</sup> Officers Diaz and Baker marked squad car, Beat #406B.

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Paxton Avenue and back to 75th Street heading west. Officer Darling observed other police vehicles eastbound on 75th Street and the Jaguar turned northbound again onto Merrill Avenue. Officer Darling turned on the emergency equipment and continued behind the Jaguar. A marked police vehicle, Beat 406C, Officers Coughlin and Torres, turned southbound on Merrill Avenue and stopped at the intersection of 74th Street. Officer Darling stated that the Jaguar continued and struck Beat 406C. Officer Darling then heard several gunshots, but did not see who fired the shots. Officer Darling slowed down and lost sight of the Jaguar. Officer Darling drove his vehicle to the west of Beat 406C and then observed the Jaguar had collided with another marked vehicle, Beat 406B, Officers Diaz and Baker, on the 7300 block of Merrill Avenue.

At this time, a black male in a gray T-shirt, [REDACTED], ran westbound from the crash towards the residential yards. Officer Darling recalled he did not see whether [REDACTED] was armed or not, and did not observe any officers run after him. Officer Darling turned westbound onto 74th Street and stopped in the west alley of Merrill Avenue. The two officers exited their vehicle and Officer Darling observed [REDACTED]'s head pop up quickly from one of the fences. Shortly afterwards, Officer Darling heard several gunshots coming from one of the yards. Officer Darling stated that he thought that he was getting shot at and sought cover behind his vehicle. Officer Darling withdrew his firearm while Officer Passarelli ran north in the alley. Subsequently, [REDACTED] was located in the yard of a residence, [REDACTED] S. Merrill Avenue, just "several houses north" of Officer Darling's location.

Officer Darling entered the yard where [REDACTED] was located and observed his partner and [REDACTED] standing against the back of the residence. Officers ordered [REDACTED] to get on the ground, and [REDACTED] complied. The officers then handcuffed and searched [REDACTED]. Officer Darling then observed that [REDACTED] had blood on his side and the back of his shirt. Officer Darling grabbed his radio, ran to the front of the residence to obtain the address, and provided the address to dispatch with a request for an ambulance. (Att. 305)

In a statement to IPRA on 18 August 2016, **Witness Officer Andrew Braun** stated that on 28 July 2016, he and his partner, Officer Arturo Fonseca, were on patrol when they heard via police radio that 4th District officers were searching for a Jaguar. A police unit announced that the Jaguar was located and the vehicle was traveling westbound from 75th and Yates Avenue. Officers Fonseca, who was the driver officer operating an unmarked police vehicle, drove east on 75th Street at the time in an unmarked CPD police vehicle. Officer Braun stated that he and Officer Fonseca saw the Jaguar coming towards their direction with two unmarked police vehicles<sup>10</sup> behind it. The Jaguar and the unmarked squad cars turned north onto Merrill Avenue. Officer Fonseca turned north onto Merrill Avenue and became the third squad car behind the Jaguar. The Jaguar turned east into an alley and came back around in a circle. As the Jaguar continued northbound on Merrill Avenue and approached 74th Street, Officer Braun observed a marked squad car, Beat 406C, Officers Coughlin and Torres, driving southbound on Merrill

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<sup>10</sup> Officers Passarelli and Darling were the first unmarked vehicle behind the Jaguar and Officers Lawson and Wojtan were the second unmarked vehicle behind the Jaguar.

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Avenue. The driver of the Jaguar slowed down to a point, but then the Jaguar accelerated to go around the marked squad car.<sup>11</sup> Officer Braun then heard ten to eleven gunshots.

Officer Braun stated that he did not know whether the police or an occupant of the Jaguar was shooting. Officer Fonseca drove onto the sidewalk on the west side of Merrill Avenue so that he and Officer Braun were out of the line of fire. Officer Braun stated that he announced shots fired over the air. The Jaguar continued to drive north and collided with another marked squad car, Beat 406B, Officers Diaz and Baker, that was driving south on Merrill Avenue.

The driver of the Jaguar, [REDACTED], exited the vehicle and ran west through a gangway and into a backyard. Officer Fonseca and Officer Braun drove around to the alley in an effort to intercept [REDACTED]. Officer Braun then heard three or four more gunshots when he and his partner reached the entrance of the alley. Officer Braun heard via radio that [REDACTED] was running northbound through yards on Merrill Avenue. At that time, Officer Fonseca reversed the squad car and proceeded north on Merrill Avenue. Officer Braun then heard that one subject was in custody in a backyard. Officer Braun recalled that he exited the vehicle and that he and other officers searched the area for shell casings and guns. Officer Braun stated that he did not go into the backyard where [REDACTED] was placed into custody until much later after the shooting. (Att. 308)

In a statement to IPRA on 16 August 2016, **Witness Officer Arturo Fonseca, #10739**, stated that on 28 July 2016, he and his partner, Officer Braun, were on routine patrol when he initially heard radio transmissions of officers following a gray BMW on 75th Street. Officers Fonseca and Braun were in the vicinity of 7500 S. Jeffery Boulevard and decided to drive east on 75th Street. As Officer Fonseca drove east on 75th Street, he observed a Jaguar driving west on 75th Street towards his direction. Officer Fonseca then observed two unmarked police vehicles and the Jaguar. At that time, Officer Fonseca realized that officers were following a Jaguar and not the BMW.

Officer Fonseca followed the Jaguar and became the third unmarked vehicle behind the Jaguar. Officer Fonseca did not recall his exact speed, but he did not believe he drove faster than 35 to 40 miles per hour. The Jaguar turned onto Merrill Avenue and drove in a circle back onto 75th Street. When the Jaguar turned back onto 75th Street, it turned back onto Merrill Avenue going north. At this time, Officer Fonseca observed the driver of the Jaguar, [REDACTED], drive around a police vehicle, Beat 406C, Officers Coughlin and Torres. When [REDACTED] drove past the right side of Beat 406C shots were fired. Officer Fonseca did not know how many shots were fired, but he believed it was between eleven to fifteen gunshots. Officer Fonseca drove his onto the west curb of Merrill Avenue to take cover. Officer Fonseca did not know if the officers had discharged their weapons or if [REDACTED] had fired a weapon. Officer Fonseca continued driving over to the left (west) side of the grass near the sidewalk.

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<sup>11</sup> Officer Braun stated that from his vantage point he observed the driver of the marked squad car, Officer Torres, on the side stepping away from the Jaguar. Officer Braun could not tell whether the officer was standing in the street or on the sidewalk. Officer Braun stated that he could not tell whether the driver of the Jaguar, [REDACTED], came to a complete stop.

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After the gunfire stopped, Officer Fonseca observed that the Jaguar had collided with a police vehicle, Beat 406B, Officers Diaz and Baker. [REDACTED] exited the vehicle and ran to the west side of the street. The officers that were already out of their vehicles pursued [REDACTED] on foot. At that time, Officer Fonseca drove off the sidewalk and turned west onto 74th Street towards the alley. During this time, Officer Fonseca heard more gunfire and then he heard someone say over the radio that [REDACTED] was running north in the yards of Merrill Avenue. Officer Fonseca placed his unmarked vehicle in reverse and then drove north onto Merrill Avenue towards 73rd Street.

When Officer Fonseca arrived on 73rd Street at the mouth of the alley, he heard on the radio that [REDACTED] was in custody. Officer Fonseca drove back onto Merrill Avenue and searched the backyards with the other officers that arrived on the scene. During the search, Officer Fonseca observed [REDACTED] lying on the ground. Officer Fonseca stated that officers were attending to [REDACTED] and someone requested an EMS over the radio. (Att. 291)

In a statement to IPRA on 16 August 2016, **Witness Officer Christopher Paschal** stated he and other officers in the district had previously received information at roll call pertaining to a list of possible stolen vehicles that had been spotted in the area. According to Officer Paschal, on 28 July 2016, he and his partner, Officer Latisha Taylor, were on routine patrol when they heard via radio transmission that a BMW on the hot car list was spotted on Stony Island Avenue. Officer Paschal and Officer Taylor proceeded to the last known location of the BMW, but while en route they heard via the radio that a Jaguar, also on the hot car list, was spotted with a van or SUV following closely behind the Jaguar. Officer Taylor then drove toward the location of the Jaguar. Approximately five seconds later, Officers Paschal heard via the radio that there was a crash and shots fired by the police. Officers Paschal and Taylor activated their vehicle's emergency lights and body cameras and headed to the area of 74th and Merrill Avenue.

The officers arrived at the location and Officer Taylor parked in front of Officer Torres' and Officer Coughlin's squad car. Officer Paschal stated that Officer Diaz's and Officer Baker's squad car was also on scene and had apparently collided with a Jaguar. Officer Paschal noted that all parties had exited their vehicles and were not in the immediate area. Officer Paschal stated that Officer Taylor secured a Taser and a baton that she located on the passenger side of Officer Diaz's and Baker's squad car. Officer Paschal and Officer Taylor then went in different directions to locate the other officers. Officer Paschal went into a rear yard and observed the subject, [REDACTED], injured on the ground. Officer Paschal added that [REDACTED] was handcuffed and lying on his side with a book bag on his back. Officer Paschal recalled that there were a total of four officers in the backyard when he arrived, but the only officer he recognized was Officer Diaz. Officer Paschal stated that when he saw that [REDACTED] was in custody and Officer Diaz was okay, he returned to the front yard and helped secure the scene. Officer Paschal stated that he did not have any discussion on scene with Officer Diaz or any officer(s) pertaining to what had occurred. (Att. 306)

In a statement to IPRA on 16 August 2016, **Witness Officer Latisha Taylor** stated that, on 28 July 2016, she and her partner, Officer Paschal, were on patrol when Officers Diaz and Baker announced that they observed a Jaguar with stolen plates in the area. Officers Taylor and Paschal activated their body cameras and their vehicle's emergency equipment and proceeded

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toward the location where the Jaguar was sighted. Officers Diaz and Baker announced that the vehicle was going westbound and approaching 74th and Merrill Avenue.<sup>12</sup> Officers Taylor and Paschal arrived at 74th and Merrill Avenue and parked behind a squad car assigned to Officer Torres and his partner, Officer Coughlin. Officer Diaz's and Baker's vehicle was also on the scene and had apparently collided with the Jaguar. Officer Taylor stated that she did not see any officers or the occupant(s) of the Jaguar in the immediate area, but an older male, now known as [REDACTED], pointed in the direction of where the officers were located.

At that time, Officer Taylor observed Officer Diaz in a gangway. Officer Diaz had spats of blood on his face and arms and could barely walk. Officer Baker came from the rear of a residence and was limping. An ambulance arrived and Officers Baker and Diaz met with paramedics. Officer Taylor stated that neither officer told her what occurred or identified themselves as the shooting officer. According to Officer Taylor, she learned from the news that Officer Diaz, Coughlin, and Torres all discharged their weapons during the incident. Officer Taylor stated that she never saw the subject, [REDACTED]. (Att. 307)

In a statement to IPRA on 19 August 2016, **Witness Officer Overrian Montilla, #13985**, stated that, on 28 July 2016, she and her partner, Officer Rauba, were on patrol in the vicinity of Stoney Island Avenue, when they heard a call on the radio related to officers following a stolen BMW. Officers Montilla and Rauba were not far from the pursuit and they continued to listen to the radio to see what direction they were headed. Based off the information they heard on the radio, the officers and the BMW were in the vicinity of 7600 or 7700 S. Stoney Island Avenue. One of the officers following the BMW indicated that he/she had lost sight of the vehicle. During this time, Officers Montilla and Rauba got another job related to the theft of a Jaguar.

The officers immediately responded to the call and observed several squad cars with their emergency equipment activated. Officers Montilla and Rauba followed the vehicles to 7400 S. Merrill Avenue and observed a squad car involved in a collision with a black Jaguar. Officer Montilla stated she did not witness the actual traffic accident. Officer Montilla exited the squad car and heard four gunshots close by. Officer Montilla did not know which direction the gunshots were coming from, but believed the gunshots came from behind some nearby houses. Officer Montilla noticed that the officers that were involved in the car crash were not in their vehicle. At that time, she observed a young man, now known as [REDACTED], attempting to ease away from the scene. There was a citizen, [REDACTED], holding a police badge and pointing at [REDACTED]. According to Officer Montilla, [REDACTED] let her know that [REDACTED] was part of the incident. Subsequently, Officer Montilla placed [REDACTED] into custody. Officer Montilla requested an ambulance for [REDACTED] because he was bleeding on his facial area and hands and said that he was hurting from the car accident. Paramedics arrived and transported [REDACTED] to [REDACTED]. Officer Montilla stated that she stayed with her partner and [REDACTED] and never went into the backyards on Merrill Avenue. Officer Montilla recalled that she observed Officer Baker injured on the scene, but she did not know the extent of his injury. (Att. 316)

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<sup>12</sup> Officer Taylor stated that she did not hear any officer announce shots fired while en route to the scene as she was driving and focused on the road while Officer Paschal monitored the radio and gave her directions.

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In a statement to IPRA on 19 August 2016, **Witness Officer Szymon Hypta, #3117**, stated that on 28 July 2016, he and his partner, Officer Gallegos, were on patrol when they received a radio transmission related to officers following a Jaguar that was possibly stolen. As Officers Hypta and Gallegos proceeded to the location, they heard another call over the radio of "shots fired." According to Officer Hypta, when they arrived to the scene, the incident was over. Officers Hypta and Gallegos were initially told to locate Officer Baker, who was allegedly hurt during the incident. Soon thereafter, they observed Officer Baker with the paramedics. Officer Hypta recalled that he observed [REDACTED] in a backyard handcuffed with officers surrounding him and securing the area. Officer Hypta stated that [REDACTED] appeared to be injured because there was blood on the ground next to him and he appeared to have a red stain<sup>13</sup> on his back. Shortly thereafter, paramedics arrived on the scene and transported [REDACTED] to the hospital. (Att. 292)

In a statement to IPRA on 11 August 2016, **Witness Officer Dennis Lanning, #11945**, stated that on 28 July 2016, he was assigned to Area South Gang Enforcement office, on light duty, in the 7th District. Officer Lanning was in the office with Sergeant Poppish when Sergeant Poppish received a call from two people, Officers Darling and Passarelli, who are on their team. Officers Darling and Passarelli told Sergeant Poppish about an incident that just occurred on 74th and Merrill Avenue. Officer Lanning and Sergeant Poppish drove to the location to check on Officers Darling and Passarelli. When they arrived to the scene, Sergeant Poppish went to locate Officers Darling and Passarelli and Officer Lanning remained near the vehicle. Officer Lanning stated that he did not observe the police-involved shooting. (Att. 287)

In a statement to IPRA on 19 August 2016, **Witness Officer Ricardo Gallegos #19936**, stated that, on 28 July 2016, he was assigned to a tactical team with his partners, Officers Hypta and Montes. Officer Gallegos was the driver of an unmarked vehicle, Officer Hypta was the front seat passenger, and Officer Montes was in the back seat. Officer Gallegos stated that during their patrol the officers heard over the radio that the police were pursuing a stolen Jaguar in the vicinity of 7400 S. Merrill Avenue. The officers then heard a report over the radio that shots had been fired by the police and that an ambulance was needed for an officer. Officer Gallegos activated the emergency equipment and headed toward the above location.

When he arrived on the scene, Officer Gallegos and his partners exited their vehicle and ran northbound along with other officers. Officer Gallegos observed that a black Jaguar and a marked police vehicle, Beat 406B, Officers Diaz and Baker, had collided into each other. Officer Gallegos also observed Officer Diaz limping. Officer Diaz told the officers that he could not find his partner, Officer Baker, and that Officer Baker was in some yard. Officer Gallegos and other officers ran into a yard, but did not locate Officer Baker. Officer Gallegos and other officers continued in the alley and then came back to Merrill Avenue. The officers then entered a yard, [REDACTED] S. Merrill Avenue, and encountered unknown officers who had an individual, [REDACTED], in custody. [REDACTED] was lying face down and his hands were handcuffed behind his back. Officer Gallegos observed that [REDACTED]'s shirt was red from blood, but could not see the extent of [REDACTED]'s injuries. Because Officer Baker was not in that yard, Officer Gallegos went to the front of the residence and overheard someone say that they had found Officer Baker

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<sup>13</sup> Officer Hypta could not confirm if the red stain was blood.

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and that he was being looked at by paramedics. An unknown officer from Officer Gallegos' unit informed him and his partners that the commander wanted them to stay on the scene. (Att. 293)

In a statement to IPRA on 22 August 2016, the **Witness Officer Jacqueline Montes #4155**, stated that, on 28 July 2016, she was partnered with Officers Gallegos and Hypta. During their patrol, Officer Montes heard dispatch reporting a stolen vehicle and the officers decided to head in the direction of the vehicle. When they arrived at 74th and Merrill Avenue, Officer Montes heard over the radio that shots had been fired by the police. Officer Montes headed to the driveway of a residence where many officers, including Officers Coughlin and Torres, were located. Officers Coughlin and Torres informed her that they had discharged their firearms. Officer Montes walked with the two officers and informed Sergeant Walker that Officers Coughlin and Torres had discharged their firearms. Officer Montes then contacted FOP on the two officers' behalf. Officer Montes stated that she did not ask the two officers what had happened and they did not tell her. Shortly afterwards, Officer Montes began looking for shell cases on the ground. Officer Montes stated that she never observed the subject, [REDACTED], or the arrestee, [REDACTED], on the scene. (Att. 294)

In a statement to IPRA on 22 August 2016, the **Witness Officer Edward Rauba #17208**, stated that, on 28 July 2016, he and his partner, Officer Montilla, were assigned to Beat 414 and he was the driver of their marked police vehicle. While the officers were on patrol, he heard over the radio that officers were following a stolen black Jaguar. Officer Rauba turned on the emergency lights and headed toward the vicinity of 75th Street, where the Jaguar had been spotted, in order to provide assistance. Upon reaching 75th Street, Officer Rauba observed an unmarked vehicle with its emergency lights on behind a Jaguar. Both vehicles then turned northbound and Officer Rauba paralleled the vehicles on an unknown street. Officer Rauba then turned westbound onto 74th Street. When Officer Rauba reached the intersection of 74th and Merrill Avenue, he observed that the Jaguar had crashed head on with a police vehicle, Beat 406B, Officers Diaz and Baker, and then he heard several gunshots. Officer Rauba recalled that he heard some shots over the radio and other shots out in the open when he exited his police vehicle.

Officer Rauba and his partner then observed an unknown individual, [REDACTED], attempting to walk away from the crash. An unknown male, [REDACTED], told Officer Rauba that [REDACTED] was the passenger in the Jaguar. Officer Rauba pointed his firearm at [REDACTED] and ordered him to the ground. [REDACTED] complied and the officers handcuffed him and placed him inside their police vehicle. Because [REDACTED] had a bloody lip, Officer Rauba asked a paramedic to check him out. Officer Rauba eventually learned that the shots had been fired by police officers. Officer Rauba did not observe the subject, [REDACTED], on the scene and did not observe any officers discharging their firearms. After [REDACTED] was transported away, Officer Rauba began to look around for a gun in the west alley of Merrill Avenue. Sergeant Walker later directed Officer Rauba to complete case reports and one arrest report and Officer Montilla completed the traffic crash report. (Att. 295)

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**2. Civilian Witnesses Interviews:**

A **Canvass Report**, dated 29 July 2016, noted that a canvass of the area of the incident produced two witnesses, [REDACTED] and [REDACTED]. (Att. 32)

In a statement with IPRA dated 01 August 2016, **Witness** [REDACTED] stated that on 28 July 2016, at approximately 1935 hours, he was in the driveway of his home, located at [REDACTED], when he heard three to four gunshots. [REDACTED] looked down his driveway and observed a police SUV heading southbound on Merrill Avenue. [REDACTED] stated Merrill Avenue is a one way street that goes northbound. A couple of seconds later, [REDACTED] heard a big crash and then heard more gunshots. At that time, [REDACTED] ran down his driveway toward the crash. As [REDACTED] ran towards the crash, he observed two vehicles in what appeared to be a head on collision. One of the vehicles was a black two-door convertible Jaguar, which was facing north, and the other vehicle was the police SUV, Beat 406B, Officers Diaz and Baker, which was facing south. [REDACTED] observed a young man, now known as [REDACTED], exiting the Jaguar and running westbound through a driveway with two uniformed officers chasing him. According to [REDACTED], [REDACTED] was looking back over his right shoulder as he ran and appeared to be clutching “a bag or something” in his right hand. [REDACTED] stated [REDACTED] ran down the west driveway of the second home from the corner.<sup>14</sup>

As [REDACTED] continued to stand there, he observed another young man, now known as [REDACTED], exit the Jaguar. [REDACTED] stumbled out of the vehicle and [REDACTED] “hollered” at [REDACTED] that the police were there and to stop. [REDACTED] stopped and stared at [REDACTED] for a couple of seconds. At that time, a female officer, now known as Officer Montilla, approached [REDACTED] and told him to get on the ground. [REDACTED] complied and Officer Montilla handcuffed [REDACTED] and placed him in her vehicle. By that time, [REDACTED] heard five to six more gunshots. [REDACTED] then ran back towards his home, which was about two doors down, and looked down the driveway of his neighbor’s home and observed police officers running. [REDACTED] stated he has video cameras on the outside of his home which captured his neighbor’s driveway, which is west of his home, where people were running. [REDACTED] stated he is a retired Chicago Police Officer and retired from CPD in 2014. [REDACTED] stated he does not know the officers involved in this incident. (Att. 59)

In a statement to IPRA on 03 August 2016, the **witness**, [REDACTED], stated that, on 28 July 2016, at approximately 1923 hours, she was at her residence at [REDACTED]. [REDACTED] was in bed watching television on the second floor when she heard about four “pops.” She stated that she did not know what those sounds were. [REDACTED] then observed blue lights flashing outside and went to her window and parted the blinds. At that time, she observed at least three white male uniformed officers running southbound in the middle of Merrill Avenue. [REDACTED] heard three or four “pops” and observed “orange flames” coming out of the officers’ firearms, but she did not see who the officers were shooting at. [REDACTED] observed a “ton” of officers running westbound in the driveway of the residence at [REDACTED] S. Merrill Avenue, which is directly across from her residence. She then heard additional shots and ducked down.

<sup>14</sup> Now known as [REDACTED] S. Merrill Avenue.

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When she looked out again, she observed officers coming from "everywhere." [REDACTED] [REDACTED] observed officers running into the driveways of residences across the street from her house. Subsequently, [REDACTED] exited her residence. An ambulance was parked in front of [REDACTED] S. Merrill Avenue and a stretcher with an unknown individual on it came from the backyard of that address. [REDACTED] stated that she did not observe the head-on collision with the police vehicle until the following morning. [REDACTED] stated that she did not hear any other loud sounds prior to hearing the shots fired. (Att. 62)

Attempts to contact and interview the witness, [REDACTED], were unsuccessful. [REDACTED] [REDACTED] is represented by counsel in this matter. Requests to his attorney to arrange an interview were made via telephone and certified letter. [REDACTED]'s attorney did not respond to any of the requests. (Att. 290)

**3. Accused Officer Interviews:**

In a statement with IPRA dated 23 September 2016, **Accused Officer Michael Coughlin** stated on 28 July 2016, he and his partner, Officer Jose Torres, were on 93rd and Stoney Island Avenue when they spotted a BMW. The officers ran the license plate number which revealed the vehicle was stolen. Officer Coughlin suspected the BMW was one of the vehicles stolen from the suburbs. The BMW took off and Officers Coughlin and Torres lost sight of the vehicle. Shortly afterwards, the officers observed the BMW again on 91st and Stony Island Avenue. Officers Coughlin and Torres attempted to stop the BMW a second time, but the BMW took off and the officers lost sight of the vehicle again. Shortly afterwards, Officer Coughlin heard another unidentified unit<sup>15</sup> state it had eyes on a stolen 2002 Jaguar. Officers Coughlin and Torres drove in the direction of the Jaguar as the unidentified unit called out the location of the Jaguar.

The officers turned from 74th Street onto Merrill Avenue and observed the Jaguar driving northbound on Merrill Avenue as they drove southbound on the same street. According to Officer Coughlin, the Jaguar appeared as if it was going to stop, at approximately [REDACTED], [REDACTED], or [REDACTED] S. Merrill Avenue, because the front end of the vehicle nosedived. The officers stopped and exited their vehicle, at approximately [REDACTED] or [REDACTED] S. Merrill Avenue, and observed that the Jaguar was not stopping. Officer Coughlin estimated the Jaguar was traveling over 30 miles an hour. The driver of the Jaguar, now known as [REDACTED], drove the Jaguar towards Officer Torres and accelerated.<sup>16</sup>

At that time, Officer Coughlin stated he was afraid for the life of Officer Torres. Officer Coughlin stated he believed Officer Torres had been struck by the Jaguar which could possibly have killed Officer Torres or seriously injured him. Officer Coughlin could not see where Officer Torres was, so he discharged his firearm<sup>17</sup> at [REDACTED] because [REDACTED] was using deadly

<sup>15</sup> Now identified as Officers Darling and Passarelli. Officer Darling and Passarelli were both assigned to the same unmarked car, Car #1788, but had different beat numbers. Officer Darling was assigned Beat 6721F and Officer Passarelli was assigned Beat 6721C.

<sup>16</sup> Officer Coughlin stated he was unaware that there was a passenger in the Jaguar at that time.

<sup>17</sup> Officer Coughlin stated he was a car length away from the Jaguar, which he estimated at four feet, when he initially started to discharge his firearm at the Jaguar. Officer Coughlin recalled that the longest distance was between 50 – 75 feet away as he discharged his firearm at the Jaguar.

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force against Officer Torres. Officer Coughlin explained that [REDACTED] made a decision to use the Jaguar as a deadly weapon by turning the vehicle into the path of where Officer Torres was standing and accelerating the vehicle.<sup>18</sup> [REDACTED] drove the Jaguar between the officers' vehicle and another parked vehicle<sup>19</sup> striking both vehicles.

Officer Coughlin stated he believed [REDACTED] was intentionally trying to strike Officer Torres. The Jaguar passed by Officers Coughlin's and Torres' vehicle. Officer Coughlin stated he continued to discharge his firearm because [REDACTED] needed to be stopped and taken into custody immediately and he was concerned for the safety of citizens and officers in the area. Meanwhile, Officer Coughlin observed another police vehicle, Beat 406B which was occupied by Officers Diaz and Baker, driving south in the 7300 block of south Merrill Avenue. Officer Coughlin continued to discharge his firearm at the Jaguar until he determined Officers Diaz and Baker were getting too close and he did not want to endanger the officers or inadvertently strike them.

[REDACTED] continued to drive the Jaguar north on Merrill Avenue and collided head on with Officers Baker's and Diaz's police vehicle, and Officer Coughlin heard Officer Torres discharge his firearm. After the collision, [REDACTED] "bailed"<sup>20</sup> from the Jaguar, so Officer Coughlin decided to pursue [REDACTED] along with Officers Baker and Diaz. Officer Coughlin did not recall observing anything in [REDACTED]'s hands. In addition, Officer Coughlin could not recall what verbal commands he gave to [REDACTED], but he recalled giving verbal commands. Officer Coughlin stated he would have said something to the effect of "stop, get on the ground."

Officer Coughlin pursued [REDACTED] into the driveway between [REDACTED] and [REDACTED] S. Merrill Avenue. When [REDACTED] reached a fence in the backyard of [REDACTED] S. Merrill Avenue, he went over a wooden fence that was about six feet high. Officer Baker attempted to go over the fence and asked Officer Coughlin to assist him get over the fence. Officer Coughlin assisted Officer Baker over the fence by "giving him a boost." According to Officer Coughlin, when Officer Baker went over the fence he fell "pretty hard." At that time, Officer Coughlin heard gunshots, but he did not know who was shooting. Officer Torres told Officer Coughlin to "go around" and an unknown voice over the radio stated [REDACTED] was running back towards Merrill Avenue. Officer Coughlin proceeded east in the driveway between [REDACTED] and [REDACTED] S. Merrill Avenue and then north on Merrill Avenue.

Subsequently, a citizen, now identified as [REDACTED], pointed in a northwest direction. Officer Coughlin ran towards the direction [REDACTED] was pointing towards and while running he did a tactical reload of his firearm.<sup>21</sup> Officer Coughlin recalled he reloaded his firearm as he pursued [REDACTED] because he was not sure "how many rounds he had expended and he was taught in the academy that you want to have a fresh weapon in case you need to identify your weapon." As Officer Coughlin reloaded his firearm, his expandable baton dropped

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<sup>18</sup> Officer Coughlin stated that the Jaguar did not drive towards him.

<sup>19</sup> Blue Ford Expedition, license plate number "[REDACTED]"

<sup>20</sup> Ran

<sup>21</sup> Officer Coughlin removed the gun magazine that was in his firearm and placed it in his left cargo pocket. He then replaced the gun magazine with a fully loaded gun magazine.

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from his holster. Officer Coughlin ran into the backyard of [REDACTED] S. Merrill Avenue. In the backyard of [REDACTED] S. Merrill Avenue, Officer Coughlin observed [REDACTED] lying on the ground on his stomach and three officers<sup>22</sup> placing [REDACTED] into custody. Officer Coughlin did not observe [REDACTED] with a weapon. Officer Diaz entered the backyard. Officer Coughlin checked on Officer Baker to ensure he was okay. According to Officer Coughlin, Officer Baker was in obvious pain. Officer Coughlin then heard someone state that [REDACTED] was shot and someone request that an ambulance respond to the scene.

Officer Coughlin also requested an ambulance for Officer Baker. Subsequently, Officer Coughlin walked back to his police vehicle. Sergeant Carroll responded to the scene and told Officer Coughlin to turn off his body camera. Officer Coughlin stated that prior to the date of the incident, he was given information during roll call about stolen vehicles taken from in the area of his police district or vehicles that were taken from an auto theft ring from the northern suburbs, such as Bolingbrook or Barrington. In addition, Officer Coughlin was told the stolen vehicles were being used in shootings, aggravated batteries with handguns, and homicides.

Officer Coughlin stated that the first indication he had of the Jaguar was when the LoJack system activated in Beat #406B, which was the vehicle occupied by Officers Diaz and Baker. Officer Coughlin stated that he ran the Jaguar's license plate number on the PDT system once he heard the license plate number come over the air. Officer Coughlin was never told any information about the occupants in the Jaguar, [REDACTED] or [REDACTED], or if they had a weapon. Additionally, Officer Coughlin did not have any information on how the Jaguar was stolen prior to the incident.

Officer Coughlin stated he discharged his firearm at the Jaguar to incapacitate the driver, [REDACTED]. According to Officer Coughlin, after the incident, he stated "fuckin desk duty for 30 days now, motherfucker I shot" because he was frustrated. Officer Coughlin explained he did not join the police department to sit at a desk. Officer Coughlin further explained he liked working on the street and he is not the type of person to sit in an office or do menial tasks. (Att. 336)

In a statement with IPRA dated 23 September 2016, **Accused Officer Jose Torres** stated that, on 28 July 2016, he was working Beat #406C with Officer Coughlin. While on patrol, Officer Torres observed a BMW. The officers ran the plate and then attempted to stop the BMW, but the BMW went around and Officers Torres' and Coughlin's vehicle. The officers continued on patrol and heard information given over the radio from officers about a stolen Jaguar. Officers Torres and Coughlin, who were in the area of 95th and Jeffery Boulevard, agreed to head over towards the location where the Jaguar was last observed. As the officers proceeded to the location, they activated their lights and sirens. At some point, Officer Torres heard via radio an officer calling out directions of the Jaguar. Officer Torres heard that the Jaguar was traveling north on Merrill Avenue from 75th Street, so he turned on Merrill Avenue going south from 74th Street.

When Officer Torres first observed the Jaguar he stopped the police vehicle because he thought the occupants in the vehicle were going to stop and bail out of the vehicle. Officer Torres

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<sup>22</sup> Officer Coughlin could not identify the officers, but the officers are now identified as Officers Wojtan, Passerelli, and Darling.

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stated he assumed he was going to place the occupants in the Jaguar in custody and the incident would be over. However, the driver of the Jaguar, [REDACTED], continued to drive towards Officer Torres' police vehicle. Officer Torres exited the police vehicle because he believed [REDACTED] was going to hit the police vehicle "straight on." According to Officer Torres, [REDACTED] attempted to kill him by trying to run him over. Officer Torres got out of the way<sup>23</sup> while Officer Coughlin started to discharge his firearm. Officer Torres recalled that he did not shoot at the Jaguar<sup>24</sup> as it was coming towards him because the incident happened so fast and he does not know when he took his firearm out of the holster.

Officer Torres then discharged his firearm once as the Jaguar drove north on Merrill.<sup>25</sup> Officer Torres explained that he attempted to get an accurate shot to stop [REDACTED] from "pressing on the gas" pedal.<sup>26</sup> Officer Torres further elaborated that he discharged his firearm based on [REDACTED]'s actions. He stated that it appeared that [REDACTED] was going to get either civilians<sup>27</sup> or responding officers hurt or killed. Officer Torres stated that he only had one opportunity to shoot because he waited to take a well-aimed shot. Officer Torres did not discharge his firearm again because he observed another police vehicle, Beat 406B, Officers Diaz and Baker, getting too close.

Subsequently, the Jaguar crashed into the oncoming police vehicle occupied by Officers Diaz and Baker. After the collision, [REDACTED] exited the Jaguar and ran. Officer Torres recalled that [REDACTED] did not appear injured and he did not have anything in his hands at that time. Officer Torres gave [REDACTED] verbal commands, but he could not recall what he said. Officer Torres pursued [REDACTED] into a driveway<sup>28</sup> with Officers Baker and Coughlin.<sup>29</sup> When [REDACTED] ran into the driveway, Officer Torres lost sight of him. Officer Torres ran into the driveway and observed Officer Baker attempting to hop over a wooden fence. Officer Torres stated he did not observe [REDACTED] hop a fence, but he assumed that [REDACTED] had scaled the fence Officer Baker was attempting to get over. Officer Coughlin attempted to jump over the fence, but was unsuccessful.

At that time, Officer Torres heard an indeterminate number of gunshots. Officer Torres believed either responding officers or [REDACTED] were shooting. Officer Torres ran back onto Merrill Avenue and saw a civilian, [REDACTED], point and state that [REDACTED] was going back on Merrill Avenue. Officer Torres then ran to the backyard<sup>30</sup> where he heard screaming. In the backyard, Officer Torres observed officers with [REDACTED]. [REDACTED] was on the ground lying face down. Officer Torres told [REDACTED] to place his hands behind his back or raise his hands. [REDACTED] did not comply, so Officer Torres grabbed his hand and assisted in handcuffing [REDACTED].

<sup>23</sup> Officer Torres stated the incident happened fast, fractions of seconds, and that only his speed in stepping out of the way prevented him from getting ran over.

<sup>24</sup> Officer Torres estimated that the Jaguar's speed was between 30 – 40 mph.

<sup>25</sup> Officer Torres believed he was about 100 feet away from the Jaguar when he discharged his firearm.

<sup>26</sup> Officer Torres stated he hoped that discharging his firearm at [REDACTED] would stop [REDACTED] from stepping down on the gas pedal and result in the Jaguar stopping.

<sup>27</sup> Officer Torres stated at the time of the incident he did not observe any civilians in the area.

<sup>28</sup> [REDACTED].

<sup>29</sup> Officer Torres stated he ran behind Officer Coughlin and Officer Coughlin ran behind Officer Baker.

<sup>30</sup> [REDACTED].

Officer Torres could not recall receiving any information about the Jaguar prior to the incident, but recalled he was provided information regarding stolen vehicles from the suburbs while in roll call. Officer Torres recalled the Jaguar popped up on the LoJack System in another CPD vehicle, but he could not recall which police vehicle.<sup>31</sup> In addition, Officer Torres stated he did not receive any information regarding the occupants of the Jaguar, [REDACTED] and [REDACTED], prior to the incident.

Officer Torres stated he does not feel he used a roadblock to stop [REDACTED]. According to Officer Torres, he believed that, if he stopped his vehicle, [REDACTED] would stop the Jaguar and "bail" out on foot. Officer Torres stated he was unaware he had mixed ammunition in his weapon. Officer Torres explained that he tries to utilize the gun range regularly and may have inadvertently mixed his ammunition while unloading his magazine. (Att. 337)

In a statement with IPRA dated 26 September 2016, **Accused Officer Jose Diaz** stated that on 28 July 2016, he was dressed in uniform and assigned to Beat 406B, which was a marked police vehicle, driven by his partner, Officer Baker.<sup>32</sup> Officer Diaz learned in rollcall that there were stolen vehicles in the 4th District area. As Officers Diaz and Baker were on patrol, Officer Diaz recalled observing a Jaguar with a distorted license plate.<sup>33</sup> The officers followed the Jaguar and obtained the license plate number. Officer Diaz notified dispatch that they were following the vehicle and ran the license plate number which revealed that the Jaguar was stolen. As the officers followed the Jaguar, the LoJack System in their marked police vehicle went off, which indicated that there was a stolen vehicle in the area. Another vehicle, which Officer Diaz believed was a Buick Rendezvous, cut off Officers Diaz and Baker and the Jaguar took off. Officers Diaz and Baker then lost sight of the Jaguar.

Officers Diaz and Baker notified dispatch that they lost sight of the Jaguar. Officer Diaz contacted the LoJack Company in order to learn how to process and read the system. The officers stopped their marked vehicle and attempted to get a better read with the LoJack System. At that time, Sergeant Walker drove up and spoke with the officers and Officers Diaz and Baker informed Sergeant Walker about what they were doing. As the officers spoke to Sergeant Walker, Officer Diaz heard an unidentified unit state they spotted the Jaguar and provided pinpoint directions. Officer Diaz told Officer Baker to turn the marked police vehicle around and the officers eventually proceeded to drive east on 73rd Street and then south on Merrill Avenue.

As the officers drove south on Merrill Avenue,<sup>34</sup> Officer Diaz heard gunfire<sup>35</sup> and observed the Jaguar driving in his direction.<sup>36</sup> Officer Diaz told Officer Baker that he believed

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<sup>31</sup> The LoJack System was located in Officer Diaz's and Officer Baker's police vehicle, Beat 406B.

<sup>32</sup> Officer Diaz stated he typically worked with Officer Baker and has been working with him for approximately two years.

<sup>33</sup> Officer Diaz could not recall exactly why the license plate looked distorted, but stated he believed it was something with the plastic or writing.

<sup>34</sup> Merrill Avenue is a one way street going north. Officer Diaz stated he and Officer Baker decided to drive south on Merrill Avenue because it was the fastest way to get to the location where the Jaguar was located.

<sup>35</sup> Officer Diaz stated he could not recall how many gunshots he heard, but stated he heard a bunch of shots.

<sup>36</sup> Officer Diaz stated he believes Officer Baker was driving 40 mph and the Jaguar may have been travelling 40 mph.

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the occupant(s) in the Jaguar were shooting at them and Officer Baker told Officer Diaz to get down. Officer Diaz stated he did not see anyone in the Jaguar discharging a weapon, but explained that he believed the occupant(s) in the Jaguar were shooting at him because the gunshots were directly in front of him and he believed that the bullets were coming by him and his partner.<sup>37</sup> At that time, Officers Diaz and Baker slightly leaned over the center console to protect themselves. Officer Diaz then heard a loud explosion.<sup>38</sup> After the explosion, Officer Diaz opened his eyes<sup>39</sup> and sat up. Officer Diaz realized Officer Baker had exited their marked police vehicle. Officer Diaz believed that he had been fired upon and did not know if the offenders were still coming for him or his partner, so he decided to exit the marked police car.

Officer Diaz attempted to open his passenger side door, but the door did not initially open. Officer Diaz managed to get out of the marked police vehicle and observed an officer, who he believed was Officer Baker<sup>40</sup> at the time, running into a yard.<sup>41</sup> At that time, Officer Diaz stated he was a little bit disoriented and his taser fell off by his marked police vehicle. Officer Diaz decided to run westbound into an adjacent yard in order to get to the alley.<sup>42</sup> As Officer Diaz ran westbound into a yard,<sup>43</sup> he observed a male subject, [REDACTED], jump over a wooden fence.<sup>44</sup> [REDACTED] jumped over the fence and "kind of" hit the ground in a squat position with both of his hands on the ground.<sup>45</sup> As [REDACTED] stood up, Officer Diaz stated to [REDACTED], "Show me your fucking hands. Don't fucking move, show me your fucking hands." [REDACTED] reached for his left side/waist<sup>46</sup> and Officer Diaz discharged his firearm.

Officer Diaz explained he believed [REDACTED] was attempting to engage him again. Officer Diaz was under the impression that he had been shot at or shot, and he did not know if he had been hit or if Officer Baker had been hit. Officer Diaz explained that his first two shots came one after the other, and then there was a pause and a third gunshot followed by a fourth gunshot, and possibly a fifth gunshot.<sup>47</sup> Officer Diaz recalled that there was time in between his gunshots because he was moving and running, but he recalled that all of his gunshots were fired from the backyard of [REDACTED]. He also was being careful not to fall or trip over anything in the yard.

[REDACTED] continued to north through the backyard of [REDACTED]. [REDACTED] then jumped over a fence and landed in the backyard of [REDACTED].

<sup>37</sup> Upon inquiry, Officer Diaz denied observing Officers Coughlin or Torres discharge their firearms, but admitted that he did not directly observe any occupants in the Jaguar discharge a weapon.

<sup>38</sup> The loud explosion was the collision of the Jaguar and the officers' marked police vehicle.

<sup>39</sup> Officer Diaz stated he does not recall if he blacked out or not.

<sup>40</sup> Officer Diaz stated after reviewing video footage from the incident he believes it was now Officer Coughlin.

<sup>41</sup> The location of this yard is now known as [REDACTED].

<sup>42</sup> Officer Diaz stated he and Officer Baker have "this thing" where if an offender is running they split up and try to converge at some point in order to trap the offender.

<sup>43</sup> The location of this yard is now known as [REDACTED], which was adjacent to [REDACTED].

<sup>44</sup> Officer Diaz stated at that point he and [REDACTED] were "kind of" facing each other.

<sup>45</sup> Officer Diaz stated at that time he did not observe anything in [REDACTED]'s hands and he did not observe anything fall out of his hands.

<sup>46</sup> Officer Diaz stated he did not see anything in [REDACTED]'s waist area because [REDACTED]'s hands were covering that area.

<sup>47</sup> Officer Diaz's TRR documented he discharged his firearm five (5) times.

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According to Officer Diaz, at that time, he did not see any indication that [REDACTED] had been shot. Officer Diaz could no longer see [REDACTED] and attempted to jump over the fence, but he could not because of intense throbbing to his right leg. Officer Diaz stated that he could not recall if his firearm discharged as he attempted to go over that fence.<sup>48</sup>

At that time, Officer Diaz heard an unidentified officer state, "He's going back towards Merrill," and Officer Diaz ran back around towards Merrill Avenue. Officer Diaz ran north on Merrill Avenue and then west into another yard.<sup>49</sup> As Officer Diaz entered the backyard of [REDACTED] where he observed several officers<sup>50</sup> placing [REDACTED] into custody<sup>51</sup>. [REDACTED] was lying face down on the ground. Officers were telling [REDACTED] "don't fucking move" and "put your hands behind your back."

At that time, Officer Diaz called [REDACTED] a "bitch ass motherfucker." According to Officer Diaz, he called [REDACTED] a "bitch ass motherfucker" because he was angry and frustrated and there were a lot of emotions going through him at that time. Officer Diaz then attempted to kick [REDACTED] with his foot as [REDACTED] was lying face down on the ground.<sup>52</sup> Officer Diaz explained that, at that time, he was unaware that [REDACTED] had been shot because he did not see any blood or anything from his angle. After Officer Diaz kicked at [REDACTED], the backpack [REDACTED] was wearing on his back moved and Officer Diaz observed blood. Officer Diaz realized [REDACTED] had been shot and requested assistance.

Officer Diaz claims that he sustained back spasms, spasms in his neck, multiple bruising on his left side, and multiple contusions on the right side of his body from hip to his ankle and on his right elbow. Officer Diaz went to [REDACTED] for medical treatment.

Officer Diaz stated that he was assigned his body worn camera approximately a week to a week and a half prior to the incident. Officer Diaz stated that he realized his body camera was not on when he exited the backyard of [REDACTED], so he decided to activate his body camera when he exited the backyard because it should have been on the entire time. Officer Diaz stated he did not feel that he failed to activate his body camera because he did not have time nor did he think to activate the camera under the circumstances he faced.

Officer Diaz recalled that after the incident he made a statement stating he was "going to get crucified." Officer Diaz explained that he made the statement because, after the incident, he was informed that a weapon was not recovered from [REDACTED]. Officer Diaz referenced the current climate in the media regarding police shootings, and the shootings of unarmed black men in particular. (Att. 338)

<sup>48</sup> A shell casing was recovered in the backyard of [REDACTED]. Officer Diaz stated he attempted to go over the fence that separated [REDACTED] and [REDACTED] with his firearm and maybe a shell casing was on him when he attempted to go over that fence.

<sup>49</sup> The location of this yard is now known as [REDACTED], which was three doors north of [REDACTED].

<sup>50</sup> Officer Diaz recalled Officers Torres and Baker being in the backyard, but could not recall the names of the other officers in the backyard.

<sup>51</sup> Officer Diaz stated he could not recall if [REDACTED] was already handcuffed or being handcuffed.

<sup>52</sup> Officer Diaz stated he believed his foot made contact with either [REDACTED]'s shoulder or the backpack on his back.

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In a statement with IPRA dated 05 October 2016, **Accused Officer Mohammad Baker** stated that he learned during roll call on July 28, 2016, that a number of stolen vehicles from a car-theft ring had been spotted in the area earlier that day. Officer Baker and his colleagues were provided a list of approximately five to ten stolen vehicles to look out for. Officer Baker's police vehicle was equipped with a LoJack system, which would alert them whenever a stolen vehicle was detected in the area. While on another assignment, Officer Baker stated that he and his partner, Officer Diaz, heard via radio transmission that a stolen vehicle, a black Jaguar, had been sighted in the area. Officer Baker drove in the direction where the Jaguar was seen in an effort to intercept the vehicle.

Officer Baker drove south on Merrill Avenue and observed a police officer, now known to be Officer Torres, standing on the southeast corner of 74th and Merrill Avenue. At the same time, Officer Baker observed a black Jaguar driving north on Merrill Avenue, approaching Officer Baker's squad car. According to Officer Baker, he believed that the Jaguar struck, or attempted to strike Officer Torres because the Jaguar swerved slightly and Officer Torres either fell or dove to the ground. Simultaneously, Officer Baker heard approximately seven to ten gunshots. Officer Baker stated that the Jaguar approached him and Officer Diaz's vehicle at a high rate of speed, and Officer Baker believed that he and Officer Diaz were being shot at.<sup>53</sup> Officer Baker stated that he slammed on the brakes and attempted to stop his vehicle and the Jaguar struck his squad car head-on.<sup>54</sup>

Officer Baker exited his squad car and observed the subject, [REDACTED] exit the driver's side of the Jaguar. [REDACTED] fled and Officer Baker pursued [REDACTED] on foot. [REDACTED] disregarded Officer Baker's verbal commands to stop and show his hands. [REDACTED] ran up a driveway and jumped a fence.<sup>55</sup> Officer Baker attempted to jump the fence, but struggled. Officer Coughlin appeared and gave Officer Baker a boost over the fence. Officer Baker stated that he heard approximately three to five gunshots as he went over the fence into a residential yard. After he could not locate [REDACTED], Officer Baker jumped a second fence that led to the alley and continued to search for [REDACTED].

Officer Baker stated that he saw an officer enter a backyard one or two houses north of Officer Baker's location. Officer Baker entered the same yard and then fell to his knee in pain. Officer Baker observed approximately five to ten officers<sup>56</sup> in the backyard and saw [REDACTED] in custody. Officer Baker stated that he did not have a verbal or physical interaction with [REDACTED] in the backyard. Officer Baker stated that he did not hear any Department member direct derogatory language at [REDACTED], and he did not observe any officer kick or physically maltreat [REDACTED]. Officer Baker did not discharge his firearm during the incident. Officer Baker stated that he later learned that Officers Coughlin, Torres and Diaz discharged their

<sup>53</sup> Officer Baker stated that he did not observe the officer on the southeast corner point or discharge a weapon.

<sup>54</sup> Officer Baker stated that he and Officer Diaz bumped heads, and his head struck the dashboard.

<sup>55</sup> The driveway was between [REDACTED] and [REDACTED] jumped the fence at [REDACTED].

<sup>56</sup> Officer Diaz was one of the officers in the backyard. Officer Baker stated that he recognized the other officers, but did not know any of them personally.

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weapons, but he did not witness it. Officer Baker stated that paramedics examined him and transported him to [REDACTED] for evaluation.

According to Officer Baker, he was wearing his body worn camera at the time of this incident, but he forgot to turn on the camera and therefore did not record the incident. Officer Baker stated that when he encountered the Jaguar, his focus was on maintaining control of his squad car and ensuring the safety of him, his partner, and any civilians in the area. (Att. 319)

## B. Department Reports

The IPRA Preliminary Report and the Major Incident Notification Report provided an account of the incident similar to the introduction of this report. (Att. 4, 233)

The Arrest Report for [REDACTED] documented he was arrested on 28 July 2016, at 1936 hours, at [REDACTED], and charged with Receive/Possess/Sell Stolen Vehicle. The arresting officers were Officer Oberrian Montilla, #13985, and Officer Edward Rauba, #17208. The Arrest Report states that [REDACTED] knowingly had in his possession a black Jaguar convertible, while not being entitled to or having permission from the owner/victim, now known as [REDACTED], to be in possession of vehicle. The vehicle, a 2002 Jaguar with license plate # [REDACTED], was reported stolen to Bolingbrook Police Department on 28 July 2016. [REDACTED] was a passenger in the Jaguar. [REDACTED] was taken into custody and searched by Officer Rauba. Subsequently, [REDACTED] was transported to [REDACTED] via ambulance where he was treated and released. (Att. 17)

According to Officer Coughlin's Tactical Response Report (TRR), completed by Officer Coughlin, [REDACTED] posed an imminent threat of battery and used force likely to cause death or great bodily harm. Officer Coughlin responded with member's presence and the discharge of his firearm nine (9) times.<sup>57</sup> (Att. 9)

According to Officer Coughlin's Officer's Battery Report (OBR), on the date, time, and location of the incident, Officer Coughlin was on-duty when he came into contact with [REDACTED]. [REDACTED] used a vehicle, Jaguar, as a weapon by attempting to strike an officer with the vehicle. Officer Coughlin did not sustain any injuries. (Att. 10)

According to Officer Baker's TRR, completed by Officer Baker, [REDACTED] attacked with a weapon by using his vehicle,<sup>58</sup> as a weapon, and used force likely to cause death or great bodily harm. Officer Baker did not respond with any use of force or verbal commands. (Att. 11)

According to Officer Baker's OBR, on the date, time, and location of the incident, Officer Baker was on-duty when he came into contact with [REDACTED]. Officer Baker sustained non-fatal – minor injury (bruises/swelling/minor abrasions).<sup>59</sup> (Att. 12)

<sup>57</sup> Officer Coughlin erroneously checked "yes" for Box 40c (Did the discharge result in a self-inflicting injury?).

<sup>58</sup> Now known as a Jaguar.

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According to **Officer Diaz's TRR**, completed by Officer Diaz, [REDACTED] used force likely to cause death or great bodily harm and had a weapon. Officer Diaz responded by discharging his firearm five (5) times.<sup>60</sup> (Att. 13)

According to **Officer Diaz's OBR**, on the date, time, and location of the incident, Officer Diaz was on-duty when he came into contact with [REDACTED]. [REDACTED] used a vehicle, Jaguar, as a weapon by attempting to strike an officer with the vehicle. Officer Diaz sustained non-fatal – minor injury (bruises/swelling/minor abrasions). (Att. 14)

According to **Officer Torres' TRR**, completed by Officer Torres, [REDACTED] posed an imminent threat of battery and used force likely to cause death or great bodily harm. Officer Torres responded with member's presence and the discharge of his firearm one (1) time.<sup>61</sup> (Att. 15)

According to **Officer Torres' OBR**, on the date, time, and location of the incident, Officer Torres was on-duty when he came into contact with [REDACTED]. [REDACTED] used a vehicle, Jaguar, as a weapon by attempting to strike an officer with the vehicle. Officer Torres did not sustain any injuries. (Att. 16)

**Original Case Incident Report**, RD #HZ-368777, Battery – Aggravated PO: Other Dangerous Weapon & Assault – Aggravated PO: Other Dangerous Weapon, completed on 29 July 2016 by Officer Edward Rauba, #17208, documented all of the involved parties' information. (Att. 6)

**Original Case Incident Report**, RD #HZ-369157, Law Enforcement Related – Death: Officer Involved Shooting, completed on 29 July 2016 by Detective Frank Casale, #21041, notated the death of [REDACTED] and that IPRA was investigating the incident. (Att. 7)

**Original Case Incident Report**, RD #HZ-369170, Non-Criminal Subject Specified – Foreign Recovery: Automobile, completed on 29 July 2016 by Officer Edward Rauba, #17208, documented the 2002 Jaguar, License Plate # [REDACTED], was found to have been reported stolen to Bolingbrook Police Department by [REDACTED]. (Att. 8)

**Attendance and Assignment (A&A)** Sheets for the 4th District Police Station, 3rd Watch, documented on 28 July 2016, Officer Coughlin and Officer Torres were both assigned to work Beat #406C, Car #9031, and started their tour of duty at 1530 hours. Officer Baker and

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<sup>59</sup> During his interview with IPRA, Officer Baker stated that his OBR was incomplete, in that he should have checked the box marked, "pursuing/ arresting offender" and "officer struck with vehicle" for type of activity and type of weapon/ threat, respectively. Officer Baker added that he had just been released from [REDACTED] and was under the influence of Morphine at the time he completed the OBR.

<sup>60</sup> In his statement to IPRA, Officer Diaz stated his TRR should have documented [REDACTED] did not follow verbal direction and he used also used member's presence to subdue [REDACTED]. In addition, Box 40c (Did the discharge result in a self-inflicting injury?) was erroneously checked because he did not sustain a self-inflicted injury.

<sup>61</sup> Officer Torres stated he checked Box 40c erroneously because he did not sustain a self-inflicted injury.

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Officer Diaz were both assigned to work Beat #406B, Car #8761, and started their tour of duty at 1530 hours. (Att. 41)

**A Breathalyzer Test** for Officers Coughlin, Torres, and Diaz revealed that their BAC<sup>62</sup> was .000 on 28 July 2016. The officers also submitted to a drug test which revealed no drugs in their systems. (Att. 75)

**Training Records from CPD Bureau of Organizational Development Education and Training Division** documented Officers Diaz, Baker, Coughlin, and Torres completed the Body Worn Camera Orientation Program on 16 June 2016. On 23 June 2016, Officers Diaz, Baker, and Torres completed training for Body Worn Cameras Part 1: Law and Policy and Body Worn Cameras Part 2: Operating the Device. Officer Coughlin completed training for Body Worn Cameras Part 1: Law and Policy on 20 June 2016 and Body Worn Cameras Part 2: Operating the Device on 26 June 2016. (Att. 298, 349)

**A Bureau of Internal Affairs Report** documented that Officers Coughlin and Torres were both relieved of their police powers on 29 July 2016. Officer Diaz was relieved of his police powers on 30 July 2016. (Att. 76, 77)

**CPD Hot Desk Inquiries** documented that on 28 July 2016, at 1827 and 1919 hours, Officer Diaz ran license plate number “[REDACTED],” which belonged to the Jaguar. On the same date, at 1830, 1832, and 1931 hours, Officer Paschal ran the license plate number to the Jaguar. (Att. 106)

**Illinois Traffic Crash Report**, RD# HZ-368887, documented that [REDACTED] was driving a Jaguar (unit 1) that struck a Ford Expedition (unit 2)<sup>63</sup> and a marked police vehicle<sup>64</sup> (unit 3). Unit 1 continued and struck another vehicle<sup>65</sup> (unit 4) in a head on collision. (Att. 247)

**A Bolingbrook Police Department Case Report**, #B2-16-0004347-001, documented that on 28 July 2016, at 0555 hours, Bolingbrook Police Officer Nicholas Schmidt was dispatched to 473 Delaware Circle regarding a motor vehicle theft. Officer Schmidt met with [REDACTED] and [REDACTED] who stated that their black Jaguar bearing license plate number “[REDACTED],” which was parked in their garage, was missing and the garage door was opened. [REDACTED] reported that the keys to the Jaguar may have been in the glove compartment. The Jaguar was equipped with a LoJack system and the system was activated. (Att. 250 ,300)

**Taser Axon Executive Summary** documented that Officer Diaz's and Baker's Body-Worn Cameras<sup>66</sup> did not appear to be physically damaged. Officer Diaz's and Officer Baker's Body-Worn Cameras were tested for functionality, proved to be operating and logging engineering data as expected, and did not record the incident that took place on 28 July 2016, at

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<sup>62</sup> Blood Alcohol Content

<sup>63</sup> Vin Number “[REDACTED].”

<sup>64</sup> Beat 406C - Officers Coughlin and Torres.

<sup>65</sup> Beat 406B - Officers Baker and Diaz.

<sup>66</sup> Officer Diaz had Body Camera X81033868; Officer Baker had Body Camera X81032805.

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approximately 1935 hours, because the event button was not double tapped at the time of the incident. (Att. 253, 304)

**C. Medical Information**

The **Chicago Fire Department (CFD) Ambulance Reports** documented on 29 July 2016, at approximately 1952 hours, paramedics in CFD Ambulance #70 arrived at the scene and observed [REDACTED] laying supine, alert, and oriented with a single gunshot wound to the right side of his back. [REDACTED] was transported to [REDACTED] for medical treatment. (Att. 78)

The **CFD Ambulance Reports** documented on 29 July 2016, at approximately 1952 hours, paramedics in CFD Ambulance #38 arrived at the scene and were informed that Officer Diaz was a front seat passenger involved in a motor vehicle accident. Officer Diaz was ambulatory and complained of left leg and arm pain. The paramedics transported Officer Diaz to [REDACTED] for medical treatment. (Att. 79)

The **CFD Ambulance Reports** documented on 29 July 2016, at approximately 1952 hours, paramedics in CFD Ambulance #38 arrived at the scene and were informed Officer Baker was a restrained driver in a motor vehicle accident with offenders attempting to flee a scene. Officer Baker was ambulatory on the scene. The paramedics transported Officer Baker to [REDACTED] due to "mechanism of injury." (Att. 80)

The **CFD Ambulance Reports** documented on 29 July 2016, at approximately 1959 hours, paramedics in CFD Ambulance #50 arrived at the scene and observed [REDACTED] handcuffed and getting out of a squad car. Paramedics were informed [REDACTED] was a restrained passenger of a vehicle that struck a squad car head on at a high rate of speed. [REDACTED] complained of right hand numbness, mouth pain, and a scrape to his right hip. [REDACTED] also had an abrasion to his lip which was bleeding. [REDACTED] self-extricated himself from the vehicle and was ambulatory on the scene. The paramedics transported [REDACTED] to [REDACTED] for medical treatment. (Att. 81)

**Medical Records from [REDACTED]** documented that Officer Jose Diaz sustained pain to his right side and complained of a headache after possibly striking his head against his partner's inside the police vehicle during a head-on collision. Officer Diaz stated to hospital personnel that he was the passenger and was restrained with the deployment of the air bag and encroachment of front dashboard. Officer Diaz added that he had been turned in his seat and his right side was facing outward due to hearing gunshots prior to the accident. Officer Diaz was diagnosed as being involved in a motor vehicle collision. (Att. 229)

**Medical Records from [REDACTED]** documented that Officer Mohammad Baker informed hospital personnel that he was the driver of a police vehicle during a vehicle pursuit when a head-on collision with another police vehicle occurred. Officer Baker complained of pain to his right upper and left lower extremities. Officer Baker was diagnosed as being involved in a motor vehicle collision and 2mm nodule in the right lower lobe. (Att. 230)

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**Medical Records from [REDACTED]** documented that [REDACTED] was transported to the hospital on 28 July 2016, at approximately 2045 hours. Hospital personnel noted that [REDACTED] was in a direct collision with another car and the airbag deployed. [REDACTED] also related he "stole a car with friends and was sitting in passenger seat" and "he was able to climb out of car with ease." [REDACTED] sustained an abrasion to right hip and an abrasion to left lower lip. [REDACTED] was diagnosed as being involved in a motor vehicle collision. (Att. 259)

**Medical Records from [REDACTED]** documented that [REDACTED], was transported to the Emergency Department with a gunshot wound to the right lateral flank. [REDACTED] was declared dead in the OR<sup>67</sup> on 28 July 2016, at 2108 hours. (Att. 228)

**The Office of the Medical Examiner's Report of Postmortem Examination M.E. Case #2016-03676, for [REDACTED], by [REDACTED], MD,** documents an entrance gunshot wound on the right side of [REDACTED]'s back with no associated exit wound. A copper-colored, jacketed, deformed bullet was recovered from the soft tissue of the right side of his chest. An examination of the skin surrounding the wound revealed no evidence of close-range firing. The report also noted abrasions on [REDACTED]'s left cheek, right shoulder, right elbow, and the right side of his chest. The toxicology report was negative. The cause of death was a gunshot wound to the back and the manner of death was homicide. (Att. 136, 260)

## D. Office of Emergency Management and Communications (OEMC)

**OEMC Event Queries and Police Radio Transmissions** were collected and made part of this case file. The following is a summary of the relevant audio recordings.

- **07:40:24 p.m.**, a caller reported she observed kids between the age of 17 to 19 years of age. The caller reported one of the kids stole a tan vehicle, license plate is "Y 8 8 5 5 8 2" and had sped through a lot and jumped out of the car. The same subject ran to 75th Street in between Colfax and Exchange. The caller went on to report that was the second day in a row that they (kids) had been coming and stealing cars and dropping them off.

- **07:27:53 p.m. – Police Transmissions**

Officer Diaz:<sup>68</sup> 4 0 6 Boy.

DSP: 0 6 Boy.

Officer Diaz: Yeah we got eyes on that Jaguar that stolen 29 Jaguar we're heading uh east on 77' uh and Colfax.

DSP: Okay 4 0 6 Boy it's a BMW do you have eyes on that BMW?

Officer Diaz: 10-4 we got eyes on it, (inaudible) goin' northbound.

DSP: Okay we're on Colfax goin' northbound, 4 0 6 Boy has eyes on the 4 0 6 Boy has eyes on it.

Officer Diaz: Cops available?

<sup>67</sup> Operating Room

<sup>68</sup> Now known as Officer Diaz. Beat 406B was Officers Diaz and Baker.

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Unidentified Officer: 4 0 6 Adam show us goin'.

DSP: We got 4 O 6 Adam goin' as well. What's your location 0 6 Boy? Helicopter said they need five minutes before they in our area. What's your location 0 6 Boy?

Unidentified Officer Squad (inaudible) that job on uh westbound on 77th Street.

DSP: Okay it's a BMW, are you guys lookin' at a BMW?

Unidentified Officer: Which car squad?

DSP: Are you guys lookin' at a gray BMW with Notre Dame plates?

Unidentified Officer: 420 (inaudible) black Jaguar.

DSP: No that's the car that was stolen from 4 0 6 Charlie. Lookin' for a gray BMW with Notre Dame plates.

(inaudible)

DSP: Okay 4 0 6 Boy do you have that black, uh the gray BMW with Notre Dame plates?

Unidentified Officer: Jaguar (inaudible)

DSP: Okay 10-4. 4 0 6 Boy what's your location?

Officer Diaz: We're on uh 77th going uh westbound from Yates.

DSP: Okay 77 goin' westbound from Yates. What's the plate on that Jaguar?

Unidentified Officer: Standby.

Unidentified Officer: 4 2 5 David show us at 77.

DSP: 4 2 5 David 10-4. You're on 77th as well?

Unidentified Officer: Okay where are they at?

DSP: 4 O 6 Boy what's your location? They was last 2 goin' westbound from 77<sup>th</sup>.

Officer Diaz: (inaudible) we're on uh 7 5 and Oglesby right now.

DSP: They're now on 7 5 and Oglesby. And 4 O 6 Boy are you behind the car?

Officer Diaz: We lost 'em um tryin' to find the (inaudible)

DSP: Okay 10 - 4. Last seen at 7 5 and Oglesby. It was a black Jaguar. Last seen at 7 5 and Oglesby.

Unidentified Officer : Black Jaguar plate is [REDACTED].

DSP: With a plate of [REDACTED]. Last seen around the area of 7 5 and Oglesby.

Officer Diaz: 4 0 6 Boy. 4 0 6 Boy.

DSP: Go ahead 0 6 Boy.

Unidentified Officer: Be advised there's like a I wanna say a tan gold SUV that was with'em traveling really close to 'em. So uh just be advised.

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DSP: Okay and be advised it's a gold or tan SUV that's travelin' with 'em at a high rate of speed. Last seen at 7 5 and Oglesby. And just to confirm the plate is [REDACTED] as in [REDACTED] correct?

Unidentified Officer: 10-4. [REDACTED].

Unidentified Officer 420.

DSP: 420 go ahead.

Unidentified Officer (inaudible) the car went westbound, the van was not behind it.

DSP: 0 6 Boy did you copy?

Officer Diaz: Yeah they kept goin' north at a high rate of speed and the uh the Jaguar went west.

DSP: Okay 10- 4.

Officer Diaz: 4 0 6 Boy.

DSP: 0 6 Boy. Go ahead.

Unidentified Officer: Yeah that's a convertible top.

DSP: Convertible top Jaguar. 10-4.

COP: What color is it?

DSP: It's a black Jaguar. That's the one we ran the Lojack on earlier. Last seen in the area of 7 5 and Oglesby with a plate of [REDACTED] as in [REDACTED]. [REDACTED] [REDACTED]. There's s'posed to be a gold or a tan SUV that's ridin' along with it as well at a high rate of speed.

Unidentified Officer: What's the plate on that Jaguar?

DSP: The plate is [REDACTED] as in, [REDACTED] as in [REDACTED].  
[REDACTED] as in [REDACTED].

Unidentified Officer: All right he's goin' westbound 7 5 from Luella. Comin' up on Paxton.

DSP: Okay we got 'em goin' westbound from, on 7 5 from Luella comin' up on Paxton.

Unidentified Officer: All right squad he's gonna be goin' 7 5 and Merrill he's goin' northbound.

DSP: Northbound 7 5, from 7 5 and Merrill.

Unidentified Officer: Hittin' the north alley of Merrill, I'm sorry north alley of 7 9.

DSP: Hit the north alley of 7 9.

Unidentified Officer: Sorry 7 5.

DSP: 7 5 and Merrill. In the north alley from 7 5 and Merrill.

Unidentified Officer: Back on 75th, comin' back on 75<sup>th</sup> right now.

DSP: Goin' back to 75. What's your location now?

Unidentified Officer: Goin' back on northbound Merrill. He's goin'in circles. Someone stay on 75 street goin' towards 7 4 now.

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DSP: Okay.

Unidentified Officer: The (inaudible) you guys got. You got 'em you got 'em

DSP: Okay someone has em. He's goin' northbound on Merrill. Someone has 'em (inaudible) do, do we have 'em?

Unidentified Officer: Squad (inaudible) he's runnin'. He's - -

DSP: We got 'em runnin'.

Unidentified Officer: (inaudible)

DSP: We got 'em runnin', gimme a description.

Unidentified Officer: Gray shirt, male black, short hair.

DSP: Male black, gray shirt --

Unidentified Officer: (inaudible)

DSP: Male black, gray shirt, short hair. Where's he at now.

Unidentified Officer: (inaudible)

DSP: Where's he at now? Male black, short hair, gray shirt.

Unidentified Officer: Comin' back to Merrill, comin' back to Merrill.

DSP: He's goin' back to Merrill. Goin' back to Merrill. Lookin' for a male black, short hair, gray shirt. (inaudible)

Unidentified Officer: (inaudible) goin' north in the yards.

DSP: Goin' north in the yards, goin' north in yards. Lookin' for a male black, short hair, gray shirt. You got the air.

Unidentified Officer: (inaudible) we got 'em in the yard.

DSP: He got 'em in the yard. What's your location?

Unidentified Officer: 4 0 1 4 we got one in custody.

DSP: 4 0 1 4 got one in custody. When you get your um address let me know.

Unidentified Officer: 7351

DSP: 7351 on Merrill?

Unidentified Officer: Um yeah. I'm sorry. We got one in custody. We need EMS.

DSP: Okay we need an EMS.

Unidentified Officer: 6 boy emergency.

Unidentified Officer: Squad 6 (inaudible) offender is in the yard [REDACTED], Uh roll an ambulance for 'em. Need additional ambulance for a PO - Additional ambulance for an injured PO.

DSP: Okay.

Unidentified Officer: 6 Boy shots fired by the police.

DSP: Okay we got shots fired by the police and we need a ambulance for the offender and a PO.

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Unidentified Officer: Yeah I believe the offender's been shot also. [REDACTED]. (Att.133)

**E. Forensic Evidence**

The **Evidence Technician Photographs and Video** depicted the scene of the shooting from various angles and the recovered evidence. (Att.118-127)

**CPD Crime Scene Processing Reports** 309539 and 309569 completed on 30 July 2016 document the evidence identified, collected, and inventoried in connection with this incident. A summary of that information is as follows:

Officer Torres' gun, a Glock model 17, 9mm semi-automatic pistol, 4 barrel, Inventory #13737345, was collected and inspected. The gun magazine in the Glock had a seventeen (17) shot capacity and there were fifteen (15) WIN 9mm Luger + P caliber unfired cartridge cases removed from the magazine, one (1) WIN 9mm Luger caliber unfired cartridge case recovered from the magazine, and one (1) WIN 9mm Luger + P caliber unfired cartridge case recovered from the chamber of the Glock.

Officer Coughlin's gun, a Glock model 19, 9mm semi-automatic pistol, 4 barrel, Inventory #13737291, was collected and inspected. The gun magazine in the Glock had a fifteen (15) shot capacity and there were fifteen (15) WIN 9mm Luger + P caliber unfired cartridge cases removed from the magazine and one (1) WIN 9mm Luger + P caliber unfired cartridge case recovered from the chamber of the Glock. A second gun magazine, which had a capacity of seventeen (17), was recovered Officer Coughlin's vest pocket and there were eight (8) WIN 9mm Luger + P caliber unfired cartridge cases removed from that magazine.

Officer Diaz's gun, a Glock model 17, 9mm semi-automatic pistol, 4 ½ barrel, Inventory #13737377, was collected and inspected. The gun magazine in the Glock had a seventeen (17) shot capacity and there were twelve (12) WIN 9mm Luger + P caliber unfired cartridge cases removed from the magazine and one (1) WIN 9mm Luger + P caliber unfired cartridge case recovered from the chamber of the Glock.

There were several fired cartridge cases, Inventory #13737260, #13737285, #13737413, and #13737423, recovered. One (1) WIN 9mm Luger +P fired cartridge case was recovered from the street at [REDACTED]; Seven (7) WIN 9mm Luger +P fired cartridge cases were recovered from the street at [REDACTED]; One (1) WIN 9mm Luger +P fired cartridge case was recovered from the rear yard lawn of [REDACTED]; One (1) WIN 9mm Luger +P fired cartridge case was recovered from the rear yard lawn near the garden box of [REDACTED]; and One (1) WIN 9mm Luger +P fired cartridge case was recovered from the rear driveway pavement of [REDACTED].

Fired bullets, Inventory #13737289, 13737440, and 13737791, were recovered from the sidewalk pavement at [REDACTED], from the pressboard in the garage of [REDACTED], and from the body of [REDACTED] at the Medical Examiner's office.

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Metal fragments, Inventory #13737316, 13737334, and 13737791, were recovered on the street pavement at [REDACTED] and inside the Jaguar<sup>69</sup> on the front passenger seat, the floor of the passenger side between the passenger seat and running board, the passenger door speaker by window, and from the side of the front passenger seat. (Att.50,116)

The Illinois State Police (ISP) Laboratory Report, dated 06 September 2016 documented Officer Diaz's gun, a Glock model 17, 9mm Luger semi-automatic pistol, serial #TBG838, a gun magazine, and thirteen (13) Winchester 9mm Luger + P unfired cartridge cases were examined. Officer Diaz's weapon was operable and test fired.

Officer Torres' gun, a Glock model 17, 9mm Luger semi-automatic pistol, serial #PMR357, a gun magazine, sixteen (16) Winchester 9mm Luger + P unfired cartridge cases, and one (1) Winchester 9mm Luger unfired cartridge case were examined. Officer Torres' weapon was operable and test fired.

Officer Coughlin's gun, a Glock model 19, 9mm Luger semi-automatic pistol, serial #XGT433, two gun magazines, and twenty-four (24) Winchester 9mm Luger +P unfired cartridge cases were examined. Officer Coughlin's weapon was operable and test fired.

One fired bullet,<sup>70</sup> Inventory #13737791, was examined and revealed the bullet was fired from Officer Diaz's firearm.

Eight (8) Winchester 9mm Luger + P fired cartridge cases, Inventory #13737285 and 13737260, recovered from [REDACTED] and [REDACTED] were examined and revealed the fired cartridge cases were fired from Officer Coughlin's firearm.

Three (3) Winchester 9mm Luger + P fired cartridge cases, Inventory #13737413 and 13737423, recovered from [REDACTED] and [REDACTED] were examined and revealed the fired cartridge cases were fired from Officer Diaz's firearm. (Att.320)

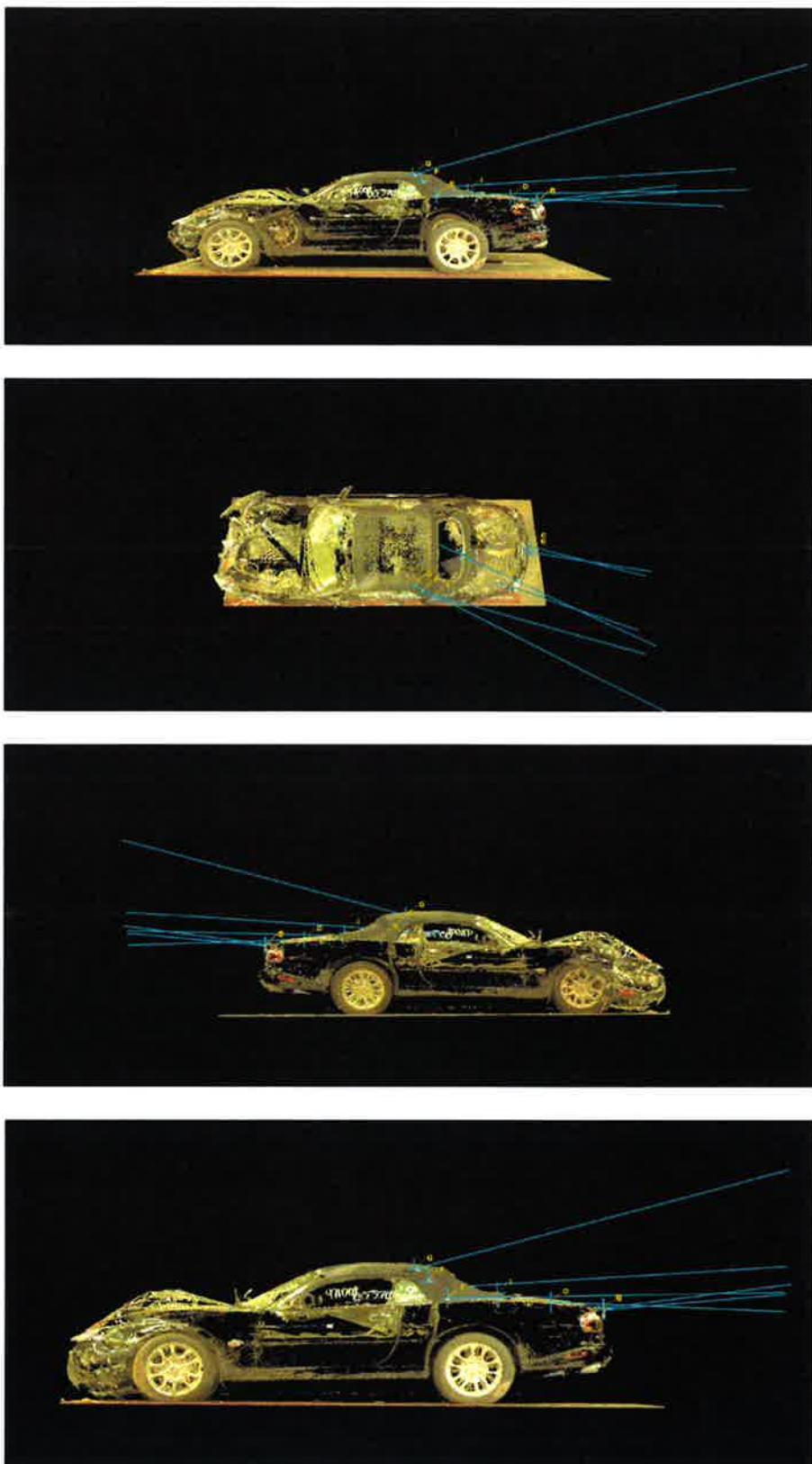
**ISP Supplemental Report**, Case #5786-16-1062, documented that on 15 August 2016, ISP Crime Scene Investigator Darrell Stafford processed the 2002 black Jaguar, license plate number "[REDACTED]." There were three defects consistent with bullet holes in the trunk. Four defects consistent with bullet holes were located on the driver's side of the vehicle behind the driver's door. The rear windshield had been shattered and only a small amount of glass remained around the outer edges. Digital images produced as a result of the ISP Trajectory Analysis illustrates the path and angle of the fired bullets as they struck the Jaguar:

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<sup>69</sup> The location was documented as [REDACTED].

<sup>70</sup> The fired bullet was recovered from the body of [REDACTED] at the Medical Examiner's office.

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On 09 August 2016, ISP Crime Scene Investigator Stafford processed Beat 406C,<sup>71</sup> Officer Coughlin's and Officer Torres' marked police SUV, which revealed a defect on the hood of the vehicle consistent with a bullet entrance. The bullet traveled from the passenger side of the vehicle to the driver's side with a downward angle. In addition, there were two additional defects observed on the driver's side headlight.

In addition, on 09 August 2016, ISP Crime Scene Investigator Daniel Garcia processed Beat 406B,<sup>72</sup> Officer Diaz's and Officer Baker's marked police SUV, which revealed no apparent signs of gunfire defects. The vehicle had excessive front end damage and was not drivable. The front passenger door did not open fully due to damage and the driver and passenger air bags were deployed. (Att. 353-54, 357)

## F. Video Evidence

A Police Observation Device (POD) search was met with negative results because there are no PODs in the vicinity of the location of incident. (Att. 28)

**Body-Worn Camera footage from Officer Coughlin** depicted him exiting the passenger side of his marked police SUV with his firearm in his right hand. After he exited, the Jaguar was observed approaching the marked police SUV. As the Jaguar approached, Officer Coughlin discharged his firearm once from the passenger side of the marked police SUV. The Jaguar continued to proceed between a parked vehicle, Ford Expedition, and the driver's side of Officer Coughlin's marked police SUV. As the vehicle drove between the two cars, Officer Coughlin discharged his firearm again, this time as he stood in front of his marked police SUV. At that time, Officer Torres is observed in the camera's view. The Jaguar continued to drive away and Officer Coughlin fired several more shots. Officer Coughlin then ran after the Jaguar while yelling "shots fired by the police." The Jaguar subsequently struck head-on an oncoming marked police vehicle, Beat 406B, Officers Diaz and Baker.

After the collision, a male subject, [REDACTED], was observed exiting the driver side of the Jaguar and an officer, Officer Baker, exited the driver side of Beat 406B. [REDACTED] proceeded to run west in a driveway, located at [REDACTED]. Officer Coughlin continued to run towards [REDACTED] with Officer Baker in front of him. The officers ran through the same driveway to pursue [REDACTED]. Officer Baker was observed attempting to go over a wooden fence, but struggled to get over the fence. Officer Coughlin assisted Officer Baker getting over the fence. After Officer Baker got over the fence, five gunshots could be heard.<sup>73</sup> Officer Coughlin attempted to get over the same fence, but was unable to. Shortly afterwards, Officer Coughlin retreated down the driveway going east and then north on Merrill Avenue.

As Officer Coughlin ran north on Merrill Avenue, he performed a tactical reload. Officer Coughlin and Officer Torres then proceeded to go west through another driveway, located at [REDACTED], and then entered that backyard. In the backyard, several officers, now

<sup>71</sup> 2014 White Ford Interceptor with license plate number "MP 11071," Car #9031

<sup>72</sup> 2013 White Ford Interceptor with license plate number "MP9186," Car #9186

<sup>73</sup> The cadence of the gunshots indicates that the shots were not fired in rapid succession.

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identified as Officers Diaz, Wojtan, Passerrilli, and Darling, are observed. An officer, now known to be Officer Diaz,<sup>74</sup> was heard stating, “Bitch ass motherfucker,” and “Fuckin’ shoot at us.” Officer Coughlin then turned around and another officer, now known as Officer Baker, appeared to be on his knees.

Subsequently, Officer Diaz requested an ambulance and Officer Coughlin requested “an additional ambulance for a PO.” Another officer, now identified as Officer Lawson, entered the same backyard from a rear fence. Officer Diaz then reported via radio, “406Boy, shots fired by the police.” Officer Torres asked Officer Coughlin “did he shoot” and Officer Coughlin replied, “Yea.” Officer Diaz then stated, “They shot at us too right?” Officer Coughlin further stated, “I shot at the car after it almost hit you,” while pointing in Officer Torres’ direction. Officer Coughlin exited the backyard and walked onto Merrill Avenue. While walking onto Merrill Avenue, Officer Coughlin told an officer, “Just one guy. He almost hit my partner, so I fucking shot at him.” “Fuck man I’m gonna be on the desk for thirty got damn days. Fucking desk duty for thirty days, motherfucker.”

Additionally, body-worn camera footage from before the incident captured Officer Torres stating to Officer Coughlin “he almost hit you dude” and Officer Coughlin responds “Yep, if he would have got closer I would have shot.” (Att.176, 177)

**Officer Torres body-worn camera** captured Officer Torres near or on the east parkway on Merrill Avenue as the Jaguar drove past. Just after the Jaguar continued to drive away, Officer Torres discharged his firearm. Officer Diaz’s and Officer Baker’s marked police vehicle can be observed approaching south on Merrill Avenue as the Jaguar drove away north on Merrill Avenue. Subsequently, [REDACTED] was placed in custody in the backyard of [REDACTED] Avenue. While [REDACTED] was being placed in custody, it appears that Officer Diaz kicks at or towards [REDACTED], as Officer Diaz states words to the effect of, “Bitch ass motherfucker, fuckin’ shoot at us.”<sup>75</sup> (Att. 176, 177)

**Officer Diaz’s and Officer Baker’s body-worn cameras** did not capture the incident. Officer Diaz’s body-worn camera only depicted the events that transpired after the incident. Officer Diaz body-worn camera footage does contain comments made about the shooting in the immediate aftermath thereof. Officer Diaz and Officer Baker discuss the fact that they believed they had been shot at and that Officer Diaz shot [REDACTED]. The footage is made part of this investigation and the audio transcriptions were also obtained. (Att. 176-223, 262-63, 302)

**Surveillance Footage**<sup>76</sup> from [REDACTED]’s home, located at [REDACTED], depicted a marked police SUV, now known as Beat 406B, Officers Diaz and Baker, going south on Merrill Avenue.<sup>77</sup> Several seconds later,<sup>78</sup> a subject, now known to be Officer

<sup>74</sup> In his statement to IPRA, Officer Diaz identified himself as the officer making the statements.

<sup>75</sup> This footage can be observed on Officer Torres’ body-worn camera, two minutes and thirty-nine seconds (02:39) into the video. In addition, Officer Diaz can also be heard making the same statements on Officer Coughlin’s body-worn camera.

<sup>76</sup> The video footage is not time stamped.

<sup>77</sup> The marked squad car was first observed going south on Merrill Avenue at seven minutes and fifty-five (07:55) seconds into the video.

<sup>78</sup> Specifically at eight minutes and eighteen seconds (08:18) into the video.

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Diaz, was observed going west in the driveway of [REDACTED]. A male subject, now known to be [REDACTED], was observed jumping over a fence in the backyard of [REDACTED]. After jumping over the fence, [REDACTED] landed in the backyard of [REDACTED] Avenue and ran north into the backyard of [REDACTED].<sup>79</sup> Subsequently, Officer Diaz was observed in the backyard by the fence of [REDACTED], a few seconds after [REDACTED] jumped over the fence. Officer Diaz did not jump the fence; it appears that he stands near it and may be reaching over it with his firearm.<sup>80</sup> Officer Diaz was next observed running east in the driveway of [REDACTED] and then north on Merrill Avenue. Additional officers responded to the scene and were observed going to the rear of the home at [REDACTED]. (Att. 34, 318)

**In-Car Camera** footage from Officer Coughlin's and Officer Torres' marked police SUV, Beat #406C, captured the Jaguar driving towards Officers Coughlin and Torres marked police vehicle. The Jaguar maneuvers to the right, which is the driver's side of Beat 406C, between a parked vehicle and Beat 406C. Officer Coughlin was then observed standing in front of his marked police SUV discharging his firearm several times towards the Jaguar. The Jaguar is no longer in the camera's view. Officer Coughlin moved to the driver side of his marked police SUV and was no longer observed in the camera's view. (Att. 235)

**In-Car Camera footage** from Officers Diaz' and Baker's marked police SUV, Beat #406B, captured the head on collision with the Jaguar that [REDACTED] was driving. A couple of seconds before the collision, Officer Diaz or Officer Baker was heard stating, "Watch out, watch out" and "Shots fired." (Att. 234)

**In-Car Camera footage** from other responding units only captured the aftermath of the incident. (Att. 234, 235, 264-83)

A request for **CPD Helicopter Footage** was met with negative results because no video or audio footage captured the incident. (Att. 90, 246)

## G. Civil Proceedings

**In the United States District Court Northern District of Illinois Eastern Division**, Case # 16-CV-07745, a complaint filed in the United States District Court, [REDACTED], the mother of [REDACTED], alleged that on 28 July 2016, [REDACTED] was in a vehicle in the area of East 74th Street and South Merrill Avenue in Chicago, Illinois, when officers attempted to effect a traffic stop of the vehicle and, without lawful justification or excuse, fired at [REDACTED], striking him in the back and killing him. [REDACTED] further alleged that the officers' actions were intentional, willful and wanton, and/or committed with reckless indifference and disregard for [REDACTED]'s rights, and were objectively unreasonable under the circumstances. In the First Amended Complaint filed in the United States District Court, [REDACTED] named Officer Jose Diaz and the City of Chicago as defendants. [REDACTED] alleged that during a motor vehicle pursuit of [REDACTED]'s vehicle, Officers Jose Torres and Michael Coughlin stopped their vehicle, exited, and discharged their firearms at [REDACTED]'s vehicle. [REDACTED] then exited

<sup>79</sup> [REDACTED] was subsequently placed into custody at that location.

<sup>80</sup> A fired casing from Officer Diaz's weapon was later found in the backyard of [REDACTED].

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the vehicle and fled into a yard while being pursued on foot by Officer Diaz. Officer Diaz then discharged his firearm approximately five times at [REDACTED], who was unarmed. [REDACTED] was struck once in the back. [REDACTED] further alleged that as [REDACTED] was lying on the ground bleeding and being handcuffed, Officer Diaz kicked him in the upper body without lawful justification or excuse.

In the Second Amended Complaint filed on 4 October 2016, [REDACTED] added the City of Chicago as a Defendant to her Willful and Wanton Claim (XI). In the Third Amended Complaint, [REDACTED] amended/corrected the caption to reflect that [REDACTED] had been appointed Supervised Administrator of [REDACTED]'s estate. The case remains pending. (Att. 296, 299, 360, 361).

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Signatures For Factual Summary:

[REDACTED]  
IPRA Investigator LaKenya White, #122

Approved:

[REDACTED]  
Joshua Hunt  
Deputy Chief, IPRA

## IV. ANALYSIS

### A. APPLICABLE RULES AND LAW:

#### 1. Chicago Police Department Rules of Conduct

- Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 6: Disobedience of any order or directive, whether written or oral.
- Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
- Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
- Rule 10: Inattention to duty.

#### 2. Use of Force

General Order G03-02-02 sets forth the force options that CPD officers may use when interacting with cooperative subjects, resistive subjects ("resisters"), and assailants. General Order G03-02-02 provides that CPD officers are only permitted to use direct mechanical strikes such as punching and kicking on assailants. An assailant is a subject who is using or threatening the imminent use of force against himself/herself or another person.

#### 3. Use of Deadly Force

Consistent with Illinois state law as codified at 720 ILCS 5/7-5, according to the Chicago Police Department's General Order 03-02-03, Section II, A:

A sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:

1. to prevent death or great bodily harm to the sworn member or to another person, or:
2. to prevent an arrest from being defeated by resistance or escape and the sworn member reasonably believes that the person to be arrested:
  - a. has committed or has attempted to commit a forcible felony which involves the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm or;
  - b. is attempting to escape by use of a deadly weapon or;

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- c. otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay.

General Order 03-02-03, Section III, titled “Department Prohibitions for Use of Deadly Force” states that use of firearms in the following ways is prohibited:

- A. Firing into crowds.
- B. Firing warning shots.
- C. Firing into buildings or through doors, windows, or other openings when the person lawfully fired at is not clearly visible.
- D. Firing at a subject whose action is only a threat to the subject himself (e.g., attempted suicide).
- E. Firing at or into a moving vehicle when the vehicle is the only force used against the sworn member or another person.

Finally, General Order 03-02-03, Section IV, titled “Affirmation of Protection of Life Policy” states that “[s]worn members will not unreasonably endanger themselves or another person to conform to the restrictions of this directive.”

Determinations regarding the potential use of excessive force in the course of an arrest, investigatory stop, or other seizure are properly analyzed under the Fourth Amendment’s objective reasonableness standard. The question is whether the officer’s actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. *Graham v. Connor*, 490 U.S. 386, 397 (1989); see *Estate of Phillips v. City of Milwaukee*, 123 F.3d 586, 592 (7th Cir. 2003). The following factors are instructive in making the determination of whether an officer’s use of force is reasonable: (1) “the severity of the crime at issue;” (2) “whether the suspect poses an immediate threat to the safety of the officers or others;” and (3) “whether he is actively resisting arrest or attempting to evade arrest by flight.” *Graham*, 490 U.S. at 396 (citing *Tennessee v. Garner*, 471 U.S. 1, 8-9 (1985)). The analysis of the reasonableness of an officer’s actions must be grounded in the perspective of “a reasonable officer on the scene, rather than with the 20/20 vision of hindsight” and “allow for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation.” *Plumhoff v. Rickard*, 134 S. Ct. 2012 (2014) (internal quotations and citation omitted). The analysis must take into account the totality of the circumstances confronting the officer, rather than just one or two factors. *Plumhoff*, 134 S. Ct. at 2020; see also *Scott v. Edinburg*, 346 F.3d 752, 756 (7th Cir. 2003).

### **3. Emergency Use of Department Vehicles**

General Order, G03-03-01 applies to motor vehicle pursuits. General Order, G03-03-01 prohibits “Roadblocks” during the course of a motor vehicle pursuit. General Order G03-03-01

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defines roadblocks as “[a]ny method, restriction, or obstruction used or intended for the purpose of preventing passage of a motor vehicle.” General Order G03-03-01 defines motor vehicle pursuit as “[a]n active attempt by a sworn member operating an authorized emergency vehicle to apprehend any driver or operator of a motor vehicle who, having been given a visual and audible signal by the officer directing such driver or operator to bring his or her vehicle to a stop, fails or refuses to obey such direction, increases or maintains his or her speed, extinguishes his or her lights, or otherwise flees or attempts to elude the officer.”

General Order, G03-03-02 applies to Emergency Vehicle Operations – Nonpursuits. General Order, G03-03-02 states in relevant that “When engaged in nonpursuit emergency vehicle operation, the operator of a marked vehicle will: . . . adhere to basic traffic-safety practices.” General Order, G03-03-02 applies to an “emergency situation”, that: (1) is encountered on-view, or; (2) otherwise comes to the attention of the vehicle operator after the unit receives an assignment from OEMC.

#### **4. Body Camera**

Special Order, S03-14, V, D and E, Body Worn Cameras, reads in part:

Department members assigned a BWC will: 2. activate the system to "event" mode to record an entire on-scene incident. Department members assigned a BWC: 1. will activate the system to event mode to record the entire incident for all: a. routine calls for service; b. investigatory stops; c. traffic stops; d. traffic control; e. foot and vehicle pursuits; f. emergency driving situations; g. emergency vehicle responses to in-progress or just-occurred dispatches where fleeing suspects or vehicles may be captured on video leaving the crime scene; h. high-risk situations, including search warrants; i. situations that may enhance the probability of evidence-based prosecution; j. situations that the member, through training and experience, believes to serve a proper police purpose, for example, recording the processing of an uncooperative arrestee; k. any encounter with the public that becomes adversarial after the initial contact; and l. any other instance when enforcing the law.

#### **5. Ammunition**

Directive U04-02 requires that firearms be “fully loaded with only one manufacturer and style of prescribed ammunition (same bullet type and grain weight).”

**B. Analysis of the Allegations against Officer Coughlin**

**1. Officer Coughlin unreasonably discharged his firearm into a moving vehicle and at or in the direction of [REDACTED], [REDACTED] [REDACTED], Officer Torres, Officer Baker, and Officer Diaz in violation of Rules 6 and 10.**

The evidence demonstrates that Officer Coughlin discharged his firearm nine (9) times on 28 July 2016.<sup>81</sup> Officer Coughlin stated that he believed [REDACTED] ran over Officer Torres with the Jaguar and that [REDACTED]'s reckless driving posed an imminent risk of death or great bodily harm to other CPD officers and civilians.<sup>82</sup> Officer Coughlin asserted that he fired at the driver of the Jaguar to "incapacitate" him and protect others from death or great bodily harm.<sup>83</sup>

However, as outlined below, IPRA finds that Officer Coughlin's actions were objectively unreasonable in light of the facts and circumstances confronting him. Officer Coughlin would not have unreasonably endangered himself or any other person by failing to discharge his firearm at or into the Jaguar. Therefore, Officer Coughlin was required to comply with CPD General Order 03-03-02's prohibition on firing at or into a moving vehicle.

**a. General Order 03-03-02 only permits CPD officers to fire at or into a moving vehicle when the failure to fire would unreasonably endanger the officer or another person.**

CPD General Order 03-02-03 must be interpreted sequentially and as a whole. Section I of General Order 03-02-03 sets forth the purpose of the directive. Section II of General Order 03-02-03 lays out specific circumstances when the use of deadly force is justified.<sup>84</sup> However, Section III of General Order 03-02-03 then expressly prohibits CPD officers from using firearms in specific situations.

Section III of General Order 03-02-03 unambiguously and explicitly prohibits officers from "[f]iring at or into a moving vehicle when the vehicle is the only force used against the sworn member or another person."<sup>85</sup> In other words, even when the use of deadly force is otherwise justified and permitted pursuant to Section II of General Order 03-02-03, Section III still prohibits officers from firing at or into a moving vehicle when the vehicle itself is the only force used against the officer or another person.

Finally, Section IV of General Order 03-02-03 provides that officers shall not *unreasonably* endanger themselves or another person in order to comply with the prohibitions contained in Section III.<sup>86</sup> In other words, CPD officers do not have to comply with Section III of

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<sup>81</sup> Att. 9; Att. 116; Att. 336 at 23-24.

<sup>82</sup> Att. 336 at 23-24.

<sup>83</sup> *Id.*

<sup>84</sup> See *supra* Section IV(A)(3).

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

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General Order 03-02-03's prohibitions when the failure to use their firearm would unreasonably endanger the officer or another person.

The exception to the prohibition on firing into moving vehicles contained in Section IV of General Order 03-02-03 must be read in context of General 03-02-03 as a whole.<sup>87</sup> Unlike Section II which permits the use of deadly force when the officer *reasonably* believes deadly force is necessary to prevent death or great bodily harm to the sworn member or to another person, Section IV applies only when the officer's failure to use deadly force would *unreasonably* endanger the officer or a third party.<sup>88</sup> This inverted phrasing is not accidental and it is a tenant of statutory interpretation that “[e]ach word, clause, and sentence should be given effect so as not to be rendered superfluous.” *Chicago Teacher’s Union, Local No. 1. v. Board of Education of the City of Chicago*, 2012 IL 112566, ¶ 15. Furthermore, the Superintendent specifically modified General Order 03-02-03 in 2015 to remove language that permitted officers to fire into a moving vehicle simply to prevent death or seriously bodily injury to an officer or another person.<sup>89</sup>

The current version of CPD General Order 03-02-03 closely mirrors the 2006 model policy promulgated by the International Association of Chiefs of Police (IACP) and many other police departments in prohibiting the use of firearms against a moving vehicle when the vehicle is the only threat.<sup>90</sup> These policies recognize that experts find firing into a moving vehicle to be extremely dangerous and usually ineffective.<sup>91</sup> First, bullets fired from handguns are unlikely to be effective against an automobile.<sup>92</sup> Second, if the driver is hit by gunfire, the vehicle is likely result to crash in an uncontrolled manner.<sup>93</sup> Third, it is extremely difficult to hit a driver in a moving vehicle with a bullet and there is a significant risk of accidentally striking a passenger or bystander with gunfire.<sup>94</sup> Fourth, if the driver is not hit by gunfire, he/she is likely to drive even more recklessly to escape thereby increasing the danger the vehicle itself poses to officers, other occupants, and bystanders.<sup>95</sup> Finally, firing at a moving vehicle may lead other officers in the

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<sup>87</sup> See *Kraft, Inc. v. Edgar*, 138 Ill. 2d 178, 188 (1990) (“[I]n ascertaining the meaning of a statute, the statute should be read as a whole with all relevant parts considered.”). Courts apply the same rules of construction to administrative rules and regulations as they do to statutes. *Hetzer v. State Police Merit Board*, 49 Ill. App. 3d 1045, 1047 (1977).

<sup>88</sup> Notably, Section IV also does not include any language that tracks the second prong of Section II which permits officers to use deadly force to prevent an arrest from being defeated by resistance or escape under specified circumstances.

<sup>89</sup> Compare CPD General Order 03-02-03 (effective date 10 February 2015) to CPD General Order 03-02-03 (effective date 1 October 2002).

<sup>90</sup> INT'L ASS'N OF CHIEFS OF POLICE, MODEL POLICY: USE OF FORCE 1 (Feb. 2006), available at <https://www.documentcloud.org/documents/2303826-useofforcepolicy.html>.

<sup>91</sup> See IACP NAT'L LAW ENF'T POLICY CTR., USE OF FORCE: CONCEPTS AND ISSUES PAPER 7 (updated Feb. 2006), available at <https://www.documentcloud.org/documents/2303827-useofforcepaper.html>; John A. Gross, *Essay: Unguided Missiles: Why The Supreme Court Should Prohibit Police Officers From Shooting at Moving Vehicles*, 163 U. PA. L. REV. ONLINE 135 (2016).

<sup>92</sup> See IACP NAT'L LAW ENF'T POLICY CTR., USE OF FORCE: CONCEPTS AND ISSUES PAPER 7 (updated Feb. 2006),

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> This occurred with [REDACTED] in this case. [REDACTED] sped up to dangerous speeds after Officer Coughlin began discharging his firearm.

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area to mistakenly believe that the gunfire is coming from the vehicle itself which increases the risk that another officer will mistakenly use deadly force on an unarmed subject.<sup>96</sup>

To apply the exception to the prohibition on firing at or into a moving vehicle broadly would make the prohibition entirely meaningless. The use of a vehicle as force inevitably puts officers and civilians at risk of death or great bodily harm. The exception would swallow the rule. IPRA will not interpret General Order 03-02-03 to make the prohibition on firing at or into a moving vehicle superfluous.<sup>97</sup> Read in context, the exception applies narrowly to cases where specific, unusual facts and circumstances demonstrate that complying with the prohibition would *unreasonably* endanger the officer or another person.

- b. **In light of General Order 03-02-03's prohibition on firing at or into a moving vehicle, a reasonable officer would not have discharged his or her firearm under the facts and circumstances that confronted Officer Coughlin.**

IPRA finds that based on the totality of the circumstances facing Officer Coughlin at the time he discharged his firearm, a reasonable officer would not have believed that complying with CPD General Order 03-02-03's prohibition on firing at or into a moving vehicle would *unreasonably* endanger himself/herself or another person and therefore would have complied with the prohibition.

A reasonable officer would have not fired at or into the Jaguar under circumstances Officer Coughlin faced for a number of reasons.

First, Officer Coughlin had no specific information from which to discern that the driver and/or occupant(s) of Jaguar had committed or would commit a violent crime prior to the incident.<sup>98</sup> Officer Coughlin stated that he did not know anything at all about [REDACTED] or [REDACTED] prior to the incident and that he merely knew that the Jaguar had been reported stolen.<sup>99</sup> Possession of a stolen automobile is not a forcible felony.<sup>100</sup>

Second, Officer Coughlin did not know whether the Jaguar contained occupants besides the driver and did not take into account the risk gunfire posed to possible occupants.<sup>101</sup> A reasonable officer would not fire at or into a moving vehicle without first assessing the risk of killing or causing great bodily injury to an occupant whether through gunfire or a crash. A reasonable officer would recognize that an occupant in a stolen vehicle may not even have knowledge that the vehicle is stolen and regardless an occupant is not in a position to control and/or stop the vehicle. To the extent Officer Coughlin believed he could simply fire at the driver

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<sup>96</sup> This occurred with Officer Diaz in this case.

<sup>97</sup> See *Kraft, Inc.*, 138 Ill. 2d at 188 (“A statute should be construed so that no word or phrase is rendered superfluous or meaningless.”).

<sup>98</sup> Officer Coughlin did note generally that stolen vehicles were being used for aggravated batteries and homicides and that he had recovered firearms from a driver and occupant of a stolen vehicle previously. See Att. 336 at 78-79.

<sup>99</sup> Att. 336 at 33-38, 67.

<sup>100</sup> See 720 ILCS 5/2-8.

<sup>101</sup> Att. 336 at 38-39, 74. 83-84.

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of the Jaguar without a significant risk of accidentally striking any occupant, his belief was unreasonable.<sup>102</sup>

Next, the incident occurred during the daylight hours on a residential street where pedestrians and other motorists were likely to be present. This significantly increased the risk of firing at or into the Jaguar. A reasonable officer would know that it is extremely difficult to hit a speeding automobile thereby increasing the risk of accidentally striking an innocent bystander or motorist.<sup>103</sup> Moreover, a reasonable officer would know that even if the driver is struck, the vehicle is likely to crash an uncontrolled fashion, again putting bystanders and other motorists at great risk. Officer Coughlin stated he did not take this into account.<sup>104</sup>

Furthermore, Officer Coughlin did not know Officer Torres' whereabouts at the time he fired his initial shots.<sup>105</sup> Officer Coughlin's belief that the Jaguar had run over Officer Torres was based on conjecture and speculation and not direct observation. Officer Torres responded appropriately and pursuant to his training by stepping out of the way of the Jaguar. The prior version of CPD General O3-02-03 which actually permitted CPD officers to fire at or into moving vehicles to prevent death or great bodily injury expressly required CPD officers to nonetheless step out of the way of an oncoming vehicle when the vehicle was the only force used against the officer. A reasonable officer would assume their fellow officer would respond to the threat of the oncoming vehicle by stepping out of the way. A reasonable officer would also have been very concerned about the risk of accidentally hitting his partner and would ensure that he or she had a clear line of sight *before* making the conscious decision to shoot for safety purposes. Indeed, Officer Coughlin's body camera footage clearly shows Officer Torres *directly* in Officer Coughlin's line of sight and Officer Coughlin nearly accidentally struck him and did accidentally strike his own police vehicle.<sup>106</sup>

Additionally, a reasonable officer would have recognized that the use of firearm against the Jaguar would not have been likely to protect human life. Officer Coughlin provided somewhat inconsistent testimony on whether he believed Officer Torres had already been hit or was just about to be hit by the Jaguar when he began to discharge his firearm.<sup>107</sup> In any event, Officer Coughlin could not articulate how discharging his weapon at [REDACTED] could have protected Officer Torres from serious bodily injury or death when the vehicle had already almost reached Officer Torres' position; a reasonable officer would have understood it would not have.<sup>108</sup> Video footage shows that by the time Officer Coughlin began firing at the car it had

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<sup>102</sup> Indeed, the ISP bullet trajectory analysis shows that multiple bullets nearly struck [REDACTED]. See Att. 353. Furthermore, although no other occupants were in the Jaguar, Officer Coughlin did not know this at the time he shot. Even assuming *arguendo* that Officer Coughlin could aim a shot directly at the driver, an occupant sitting in the backseat behind the driver would have been in Officer Coughlin's direct line of sight when he fired at the Jaguar as it drove away from him and towards Officer Diaz's and Officer Baker's police vehicle.

<sup>103</sup> Indeed, Officer Coughlin himself noted that he did not think he had struck Mr. O'Neal with any of his shots "because uh I was firin' at a moving target."

<sup>104</sup> Att. 336 at 53.

<sup>105</sup> Att. 336 at 47-48, 51, 77.

<sup>106</sup> Att. 177 at 35:16Z; Att. 354.

<sup>107</sup> Compare Att. 336 at 23, 46-47, 72, 97 with Att. 336 at 73.

<sup>108</sup> *Id.* at 72-73.

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almost reached Officer Torres' approximate position and even if Officer Coughlin had successfully "incapacitated" [REDACTED] with his first shot as he intended, there would have no opportunity for the Jaguar to even slow down, let alone stop.<sup>109</sup> Officer Coughlin's statement after the shooting incident, "I shot at the car after it almost hit you," while pointing in Officer Torres' direction suggests that Officer Coughlin may have actually fired at the Jaguar in retaliation.<sup>110</sup>

Officer Coughlin continued to fire in the direction of the Jaguar even when it drove away.<sup>111</sup> The immediate danger had already passed at this time and the Jaguar no longer constituted a threat to Officer Torres. The possibility that [REDACTED] might continue to drive recklessly is not sufficient justification especially when the CPD General Order 03-02-03 only permits officers to fire at or into a moving vehicle when the failure to do so would "unreasonably endanger" the officer or another person. *See Smith v. Cupp*, 430 F.3d 766 (6th Cir. 2005) (finding that an officer would not be justified to fire into a moving vehicle after it passed because the vehicle did not pose an immediate threat to the officer once it passed him). A reasonable officer would recognize that he or she is not likely to hit the driver and the driver is likely to react to the gunfire by driving more recklessly out of fear for their own life thereby escalating the threat the vehicle poses to others. Furthermore, a reasonable officer would understand that even if his or her gunfire struck the driver of the vehicle, the vehicle would likely subsequently crash in an uncontrolled fashion putting others at great risk of death or bodily harm.

Next, Officer Coughlin knew that the Jaguar was driving in the direction of Officer Baker's and Officer Diaz's police vehicle but fired anyway.<sup>112</sup> A reasonable officer would have been concerned about accidentally hitting the CPD vehicle driving towards the Jaguar especially in light of the low probability of a bullet fired from a handgun actually penetrating steel automobile, penetrating the back and front seats, and then striking the driver in a vehicle that is speeding away at a high rate of speed. Indeed, Officer Coughlin himself stated that when he encountered [REDACTED] in the backyard of [REDACTED] that he did not believe he had struck [REDACTED] for these exact reasons.<sup>113</sup>

While Officer Coughlin undoubtedly had to make a quick decision on whether to fire at or into the Jaguar, this alone cannot justify his actions. CPD officers are prohibited from firing at or into a moving vehicle and cannot simply disregard the prohibition every time the vehicle poses a threat of death or bodily injury. In light of the prohibition, a reasonable officer would not have fired any shots at or into the Jaguar based on the facts and circumstances faced by Officer Coughlin.

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<sup>109</sup> Att. 177 at 35:15Z; Att. 235 at 7:23:49 p.m.

<sup>110</sup> Att. 177 at 37:18-37:20Z.

<sup>111</sup> Att. 177 at 35:16Z-35:19Z.

<sup>112</sup> Att. 336 at 52-53.

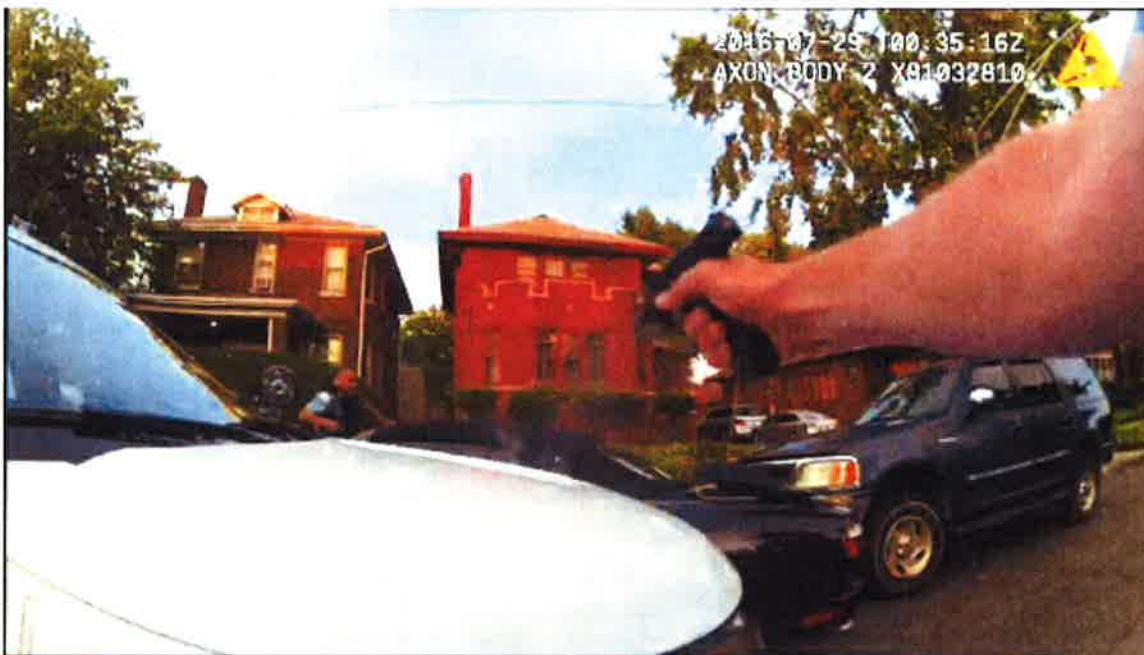
<sup>113</sup> *Id.* at 81-82.

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- c. **Officer Coughlin fired at or into a moving vehicle and at or in the direction of [REDACTED], Officer Torres, Officer Baker, and Officer Diaz.**

Although Officer Coughlin asserts that intended to shoot only at the driver of the Jaguar, the video footage, bullet trajectory report from the ISP, and CPD Crime Scene Processing Reports clearly demonstrate that Officer Coughlin fired at or into the Jaguar and at or in the direction of [REDACTED], [REDACTED], Officer Torres, Officer Baker, and Officer Diaz.<sup>114</sup> Below are screenshots from Officer Coughlin's body camera footage.

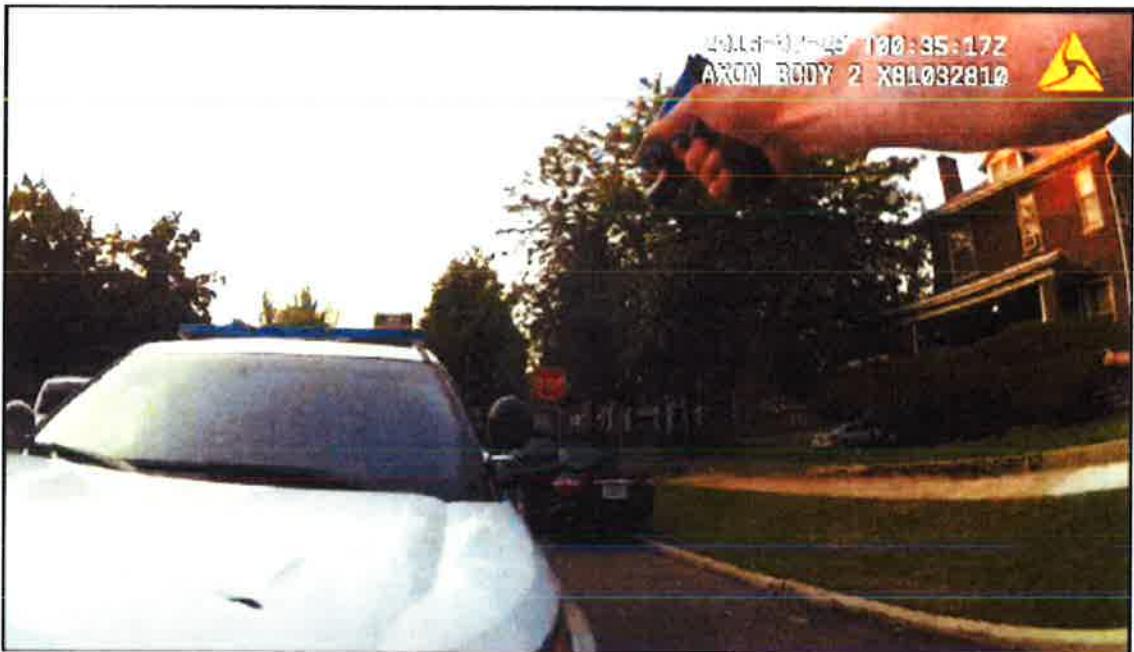


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<sup>114</sup> See Att. 177; Att. 234, Att. 235.

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As explained above, none of Officer Coughlin's nine shots were justified under CPD General Order 03-02-03 and therefore Officer Coughlin violated Rules 6 and 10 when he fired at or into the Jaguar and at or in the direction of [REDACTED], [REDACTED], Officer Torres, Officer Baker, and Officer Diaz.

2. **Officer Coughlin brought discredit to CPD by stating words to the effect of, “Fuck, man I’m gonna be on the desk for thirty goddamn days now. Fucking desk duty for thirty days now. Motherfucker. I shot” in violation of Rule 2.**

The footage from Officer Coughlin's body worn camera demonstrate that Officer Coughlin stated words to the effect of, "Fuck, man I'm gonna be on the desk for thirty goddamn days now. Fucking desk duty for thirty days now. Motherfucker. I shot."<sup>115</sup> Officer Coughlin admitted he made this statement and stated he made out of "frustration."<sup>116</sup>

Officer Coughlin's statement was completely inappropriate and brought discredit to CPD. The statement demonstrates a lack of professionalism and a lack of empathy and respect for [REDACTED] who Officer Coughlin knew had just been shot.<sup>117</sup> Frustration is not an adequate justification. Therefore, Officer Coughlin violated Rule 2 when he stated words to the effect Fuck, man I'm gonna be on the desk for thirty goddamn days now. Fucking desk duty for thirty days now. Motherfucker. I shot."

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<sup>115</sup> Att. 177 at 39:35Z -39:46Z.

<sup>116</sup> Att. 336 at 77.

<sup>117</sup> Att. 177.

**C. Analysis of the Allegations against Officer Torres**

**1. Officer Torres used his police vehicle to obstruct the passage of another vehicle in violation of Rule 6.**

The in-camera footage from Beat 406C shows that Officer Torres drove south on the [REDACTED]—a one way northbound street—directly towards the Jaguar before stopping his police vehicle in the middle of the road with a parked car slightly southeast of his vehicle’s position.<sup>118</sup> Officer Torres denied that he intended to use his police vehicle to block the path of the Jaguar.<sup>119</sup> However, his own admission suggests otherwise. During Officer Torres’ interview with IPRA, Supervising Investigator Hunt asked, “You figured that if you stopped [your police vehicle] he’d stop and bail?” Officer Torres responded “correct.” This response reflects Officer Torres’ intent to obstruct the Jaguar’s passage. In any event, Officer Torres stopping his vehicle in the middle of Merrill Avenue with another vehicle parked immediately to the southwest clearly resulted in a roadblock and created an extremely dangerous situation.

CPD General Order 03-03-01 prohibits the use of roadblocks during pursuits. A roadblock is any method, restriction, or obstruction used or intended for the purpose of preventing passage of a motor vehicle.<sup>120</sup> It is not clear whether Officer Torres was engaged in an “active pursuit” because the CPD vehicles trailing the stolen Jaguar had not yet radioed in that they were engaged in a pursuit<sup>121</sup> and it does not appear Officer Torres had activated his police vehicle’s siren.<sup>122</sup> However, it is not necessary to determine whether Officers Torres was engaged in a “pursuit” because even when engaged in nonpursuit emergency vehicle operation, the operator of a marked vehicle is required to adhere to “basic traffic safety practices” pursuant to CPD General Order 03-03-02. When Officer Torres spotted the stolen Jaguar being trailed by CPD vehicles with their lights and sirens on, he encountered an emergency situation. Therefore, at a minimum, he was required to adhere to “basic traffic safety practices.”

It is axiomatic that when a roadblock is prohibited even when an officer is authorized to engage in a pursuit, that a roadblock does not adhere to “basic traffic safety practices” and cannot be used when an officer is merely engaged in nonpursuit emergency vehicle operation.<sup>123</sup> Instead of adhering to basic traffic safety practices, Officer Torres decided to use his police vehicle as a roadblock to obstruct the passage of the Jaguar in order to get [REDACTED] to “stop

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<sup>118</sup> Att. 235.

<sup>119</sup> Att. 337 at 50-51.

<sup>120</sup> See General Order 03-03-01.

<sup>121</sup> Officer Darling was driving the police vehicle immediately behind the Jaguar and he turned on his vehicle’s emergency equipment shortly after the Jaguar turned northbound onto Merrill Avenue, a few seconds before the Jaguar encountered Officer Torres’ and Officer Coughlin’s police vehicle. Att. 305. However, Officer Coughlin stated in his interview that he believed that he and Officer Torres were engaged in a pursuit. Att. 336 at 86.

<sup>122</sup> Officer Torres stated that he did activate his sirens and lights when trying to get to the Jaguar’s location, but stated he may have deactivated the sirens. Att. 337 at 35-36. Based on the in-camera footage from the Beat 406C police vehicle, it appears Officer Torres did deactivate his police vehicle’s siren before encountering the Jaguar. Att. 235.

<sup>123</sup> Although IPRA recognizes that officers may sometimes violate certain traffic laws when engaged in legitimate police activities, it notes that traveling the wrong way down a one way street and stopping in the middle of the road also violates a number of traffic laws. *See e.g.*, 625 ILCS 5/11-708 (permitting a vehicle only to drive in the designated direction on a one way street); 625 ILCS 5/11-503 (prohibiting reckless driving).

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and bail.” Therefore, IPRA finds that Officer Torres used his police vehicle to obstruct the passage of another vehicle in violation of Rule 6.

**2. Officer Torres unreasonably discharged his firearm at or into a moving vehicle and at or in the direction of [REDACTED], [REDACTED], Officer Torres, Officer Baker, and Officer Diaz in violation of Rules 6 and 10.**

The evidence demonstrates that Officer Torres discharged his firearm one (1) time on 28 July 2016.<sup>124</sup> Officer Torres stated that he believed [REDACTED] tried to run him over and that [REDACTED]’s reckless driving posed an imminent risk of death or great bodily harm to other CPD officers and civilians.<sup>125</sup> Officer Torres asserted that he fired at the driver of the Jaguar in order to protect others from death or great bodily harm.<sup>126</sup>

However, as outlined below, IPRA finds that Officer Torres’ actions were objectively unreasonable in light of the facts and circumstances confronting him. Officer Torres would not have unreasonably endangered himself or any other person by failing to discharge his firearm at or into the Jaguar. Therefore, Officer Torres was required to comply with CPD General Order 03-02-03’s prohibition on firing at or into a moving vehicle.

**a. In light of General Order 03-02-03’s prohibition on firing at or into a moving vehicle, a reasonable officer would not have discharged his or her firearm under the facts and circumstances that confronted Officer Torres.**

A reasonable officer would have not fired at or into the Jaguar under circumstances Officer Torres faced for the same reasons explained above for Officer Coughlin. First, Officer Torres had no specific information from which to discern that the driver and/or occupant(s) of Jaguar had committed or would commit a violent crime prior to the incident.<sup>127</sup> Second, Officer Torres did not know whether the Jaguar contained any other occupants besides the driver and did not take into account the risk gunfire posed to other occupants.<sup>128</sup> Third, firing a gun at a vehicle driving away on a residential street during the day is likely to only increase the danger the vehicle itself poses to others and adds the additional danger of stray gunfire striking a bystander. Fourth, Officer Torres knew the Jaguar was driving away from him and in the direction of Officer Diaz’s and Officer Baker’s police vehicle but fired anyways.<sup>129</sup>

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<sup>124</sup> Att. 9; Att. 116; <sup>124</sup> Att. 337 at 24.

<sup>125</sup> Att. 337 at 24, 46.

<sup>126</sup> *Id.*

<sup>127</sup> *Id.* at 29-30, 37, 44, 71. Admittedly, Officer Torres did note that a lot of stolen vehicles “end up havin weapons” *Id.* at 67.

<sup>128</sup> *Id.* at 52-53. Officer Torres did assert that he fired only at the driver of the vehicle and not at [REDACTED]. *Id.* at 68. Even assuming *arguendo* that Officer Torres could aim directly at the driver, an occupant sitting in the backseat behind the driver would have been in Officer Torres’ direct line of sight when he fired at the Jaguar as it drove away from him and towards Officer Diaz’s and Officer Baker’s police vehicle. Officer Torres had no idea there was no occupant in the backseat behind the driver because he could not see through the windows. *Id.* at 52-53.

<sup>129</sup> Officer Torres stated that Officer Diaz’s and Officer Baker’s was not in his “line of sight”, but admitted it was driving towards the Jaguar. *Id.* at 47, 55.

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Although undoubtedly, Officer Torres had to make quick decision on whether to fire at or into the Jaguar, Officer Torres knew of the prohibition on firing at or into a moving vehicle and should not have contravened the prohibition simply because of the general threat the Jaguar's reckless driving posed to others. A reasonable officer would not have fired under the circumstances faced by Officer Torres.

- b. **Officer Torres fired at or into a moving vehicle and at or in the direction of [REDACTED], [REDACTED], Officer Baker, and Officer Diaz.**

Officer Torres' body camera footage demonstrates that Officer Torres fired at or into the Jaguar and at or in the direction of [REDACTED], [REDACTED], Officer Baker, and Officer Diaz.<sup>130</sup> Below is a screenshot from Officer Torres' body camera footage.



As explained above, Officer Torres' one shot was not justified under CPD General Order 03-02-03 and therefore Officer Torres violated Rules 6 and 10 when he fired at or into the Jaguar and at or in the direction of [REDACTED], [REDACTED], Officer Baker, and Officer Diaz.

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<sup>130</sup> See Att. 177 at 35:06Z.

**3. Officer Torres improperly loaded his firearm with mismatched ammunition.**

After the officer-involved shooting, CPD Forensics processed Officer Torres' firearm, a Glock; Model 17; 9MM semi-automatic pistol. The CPD report shows that fifteen (15) WIN 9mm Luger + P caliber unfired cartridge cases were recovered from the magazine, *one (1) WIN 9mm Luger caliber* unfired cartridge case was recovered from the magazine, and one (1) WIN 9mm Luger + P caliber unfired cartridge case was recovered from the chamber of the Glock. Officer Torres could not explain why he loaded his firearm with mismatched ammunition. Regardless, Directive U04-02 requires that CPD firearms be fully loaded with only one manufacturer and style of prescribed ammunition. Officer Torres violated Directive U 04-02 by mixing Win 9mm Luger caliber ammunition with Win 9mm Luger +P ammunition.

**D. Analysis of the Allegations against Officer Diaz**

- 1. The use of deadly force by Officer Diaz was objectively reasonable and within policy as outlined by Chicago Police Department's General Order 03-02-03, III.**
  - a. Officer Diaz faced perilous circumstances just prior to the shooting incident.**

Officer Diaz's actions must be viewed in context, taking into account the totality of the circumstances he faced. Officer Diaz faced an extremely tense, uncertain, and rapidly evolving situation.

Officer Diaz perceived that the shots were fired from the Jaguar or at least from direction of the Jaguar.<sup>131</sup> Officer Diaz's perception was objectively reasonable. While the gunfire actually emanated from Officer Coughlin and Officer Torres, Officer Diaz did not know that.<sup>132</sup> Officer Diaz stated that he was focused on the Jaguar driving towards his police vehicle at a high rate of speed and did not see Officer Coughlin, Officer Torres, or any other CPD officers.<sup>133</sup> IPRA finds Officer Diaz's testimony on this issue to be credible. Officer Diaz's angry statement in the backyard of [REDACTED] immediately following the shooting—"Bitch ass motherfucker, fucking shoot at us"—supports that he genuinely believed [REDACTED] had shot at him at the time.<sup>134</sup> As explained above, Officer Coughlin and Officer Torres did, in fact, fire in Officer Diaz's direction and a reasonable officer would be focused on the immediate threat of the vehicle heading in his or her direction at a high rate of speed. Moreover, a reasonable officer would assume that other CPD officers would not fire at or into a moving vehicle when that is prohibited by CPD General O3-02-03. Officer Diaz then observed the Jaguar collide with his police vehicle at a high rate of speed. Officer Diaz became disoriented from the crash and stated that there was

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<sup>131</sup> Att. 338 at 26-27, 43, 55, 71-72

<sup>132</sup> *Id.* at 71-77.

<sup>133</sup> *Id.*

<sup>134</sup> Att. 177 at 36:39Z-36:40Z. Admittedly, Officer Diaz made comments on his body camera footage after the shooting reflecting doubt on whether [REDACTED] actually shot at him. However, these comments are understandable when a weapon was not recovered from [REDACTED].

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debris in the air and “crap in [his] eyes.”<sup>135</sup> Officer Diaz then had to pry open the passenger side door to escape from the police vehicle.

**b. Officer Diaz’s first four shots were justified under the first prong of CPD General Order 03-02-03.**

The first prong of CPD General 03-02-03 permits an officer to use deadly force when he or she reasonably believes it is necessary “to prevent death or great bodily harm to the sworn member or to another person.” After Officer Diaz exited his police vehicle, he ran west down the driveway at [REDACTED] in an attempt to cut off [REDACTED].<sup>136</sup> As Officer Diaz ran west through the driveway, he observed [REDACTED] come over a fence in a squatted position facing his direction.<sup>137</sup> Officer Diaz stated that he ordered [REDACTED] to “show [him] his fuckin hands” and not to “fuckin move,” but that [REDACTED] did not comply with his commands.<sup>138</sup> Officer Diaz stated that [REDACTED] stood up and reached for his left waist area in a bladed position and then began to run northbound.<sup>139</sup> Officer Diaz stated that he unholstered his firearm and then fired at [REDACTED] because he believed [REDACTED] had previously shot at him and was about to “engage” him again.<sup>140</sup> Officer Diaz could not recall exact locations where he fired his five shots.<sup>141</sup> Officer Diaz stated that he tracked [REDACTED] as he ran through the backyard of [REDACTED] and over the fence separating [REDACTED] from [REDACTED].<sup>142</sup> Officer Diaz believed he fired all shots in the backyard of [REDACTED].<sup>143</sup> Officer Diaz stated that [REDACTED] jumped right over the fence separating [REDACTED] and [REDACTED] without a struggle.”<sup>144</sup>

IPRA recognizes that it cannot merely accept Officer Diaz’s account of the events at issue without question. *Cruz v. City of Anaheim*, 765 F.3d 1076, 1079 (9th Cir. 2014) (“[I]n the deadly force context, we cannot simply accept what may be a self-serving account by the police officer.”) (quoting *Scott v. Henrich*, 39 F.3d 912, 915 (9<sup>th</sup> Cir. 1994)). Rather, IPRA must parse through all the evidence to assess the plausibility and reliability of Officer Diaz’s account. *Id.* (noting that a court reviewing a use of deadly force incident must examine all the evidence in the record “to determine whether the officer’s story is internally consistent and consistent with other known facts”).

Officer Diaz’s statement to IPRA was generally consistent with the available evidence. The surveillance footage demonstrates [REDACTED] fleeing away from Officer Diaz and jumping over the fence separating [REDACTED] and [REDACTED] as Officer Diaz described in his statement.<sup>145</sup> Officer Diaz’s statement regarding the gunfire appearing to come

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<sup>135</sup> *Id.* at 45-46.

<sup>136</sup> Att. 338 at 26.

<sup>137</sup> *Id.* at 26, 49-50.

<sup>138</sup> *Id.* at 26, 52, 55-58.

<sup>139</sup> *Id.*

<sup>140</sup> *Id.* 26, 52, 55-58, 99.

<sup>141</sup> *Id.* at 61.

<sup>142</sup> *Id.* at 26-27, 80-83.

<sup>143</sup> *Id.* at 80-83.

<sup>144</sup> Att. 338 at 62.

<sup>145</sup> Att. 34.

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from the Jaguar is supported by the in-camera footage from his police vehicle. Admittedly, IPRA cannot independently verify [REDACTED]'s behavior in the backyard of [REDACTED], specifically whether he reached for his waist area because Officer Diaz did not activate his body camera. However, IPRA found Officer Diaz to be credible. Officer Diaz admitted to serious misconduct during his statement including kicking [REDACTED] in the backyard [REDACTED] [REDACTED] without any justification and did not appear exaggerate the conduct that led to his decision to use deadly force against [REDACTED]. Officer Diaz admitted that he tracked [REDACTED] and fired on the move as [REDACTED] attempted to run away and that he was not certain about his exact the location when he fired the shots. IPRA finds that Officer Diaz's statement as a whole reflects an officer attempting to tell the truth of what occurred to the best of his ability.

The law makes clear that an officer is not "required to wait until he sets eyes upon [a] weapon before employing deadly force to protect himself against a fleeing suspect who turns and moves as though to draw a gun." *Thompson v. Hubbard*, 257 F.3d 896, 899 (8th Cir. 2001). However, the fact that an officer reasonable believes a fleeing suspect is armed, in and of itself, is insufficient to justify the use of deadly force. See, e.g., *Cruz v. City of Anaheim*, 765 F.3d 1076, 1078 (9th Cir. 2014) ("if the suspect doesn't reach for his waistband or make some similar threatening gesture, it would clearly be unreasonable for the officers to shoot him"). Officer Diaz interpreted [REDACTED]'s conduct in light of his perception of gunfire coming from the Jaguar and the Jaguar subsequently colliding with his police vehicle at a high rate of speed. Although Officer Diaz's observing [REDACTED] reaching for his waist area and then refusing to comply by stopping and showing his hands may not be sufficient justification to use deadly force in other circumstances, IPRA finds it was sufficiently threatening to justify deadly force under the perilous circumstances Officer Diaz faced just prior to the shooting. Officer Diaz logically connected the prior gunfire he faced to [REDACTED]. Although [REDACTED] was not actually armed, Officer Diaz did not know this at the time and therefore it is not relevant to evaluating the objective reasonableness of Officer Diaz's actions in this case. See *Sherrod v. Berry*, 856 F.2d 802, 806 (7th Cir. 1988).<sup>146</sup> IPRA must evaluate Officer Diaz's actions from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. Under the totality of the circumstances, a reasonable officer would reasonably, albeit mistakenly, believe that [REDACTED] was armed and threatening him or her with death or great bodily harm. Therefore, Officer Diaz was justified in using deadly force under prong one of CPD General Order 03-02-03.

However, just because Officer Diaz was justified in initially firing at [REDACTED] does not necessarily justify [REDACTED] firing five (5) shots under prong one of CPD General Order 03-02-03. Officer Diaz admitted and the video footage confirms that Officer Diaz did not fire the five shots in a continuous fashion. The cadence of the shots involved significant pauses between the second and third shot and the fourth and fifth shot. One shell casing was found in the backyard of [REDACTED].<sup>147</sup> The surveillance footage appears to show Officer Diaz

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<sup>146</sup> IPRA notes that "Where the facts are controverted in a reasonable force case, impeachment by contradiction is allowed." *Common v. City of Chicago*, 661 F.3d 940, 946 (7th Cir. 2011). Officer Diaz did not state that he saw [REDACTED] with a gun or even with shiny, metallic object similar to a gun; Officer Diaz simply testified that [REDACTED] reached for his waist area. The fact that [REDACTED] did not have a gun does not contradict that. *Id.* at 944 (citing *Sherrod v. 856 F.2d* at 806).

<sup>147</sup> Att. 50, 116.

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reaching over the fence separating [REDACTED] and [REDACTED] with his firearm.<sup>148</sup> The surveillance footage also shows [REDACTED] slowing down significantly between jumping over the fence between [REDACTED] and [REDACTED] and jumping over the fence between [REDACTED] and [REDACTED] suggesting that he may have been struck while in the backyard of [REDACTED].<sup>149</sup> IPRA finds by a preponderance of the evidence that Officer Diaz fired his fifth shot while reaching over the fence separating [REDACTED] and [REDACTED] with his firearm.

Officer Diaz did not articulate that [REDACTED] made any additional threatening gestures after he opened fire and Officer Diaz stated he never saw a weapon in [REDACTED]'s hand. [REDACTED]'s actions after his initial encounter with Officer Diaz simply demonstrated intent to flee. Once [REDACTED] jumped the fence between [REDACTED] and [REDACTED] and continued running away from Officer Diaz, any immediate threat [REDACTED] posed to Officer Diaz was substantially mitigated. Officer Diaz did not know the whereabouts of any other CPD officers or civilians. A reasonable officer would have no longer believed deadly force was necessary to prevent death or great bodily harm to the sworn member or to another person at the time Officer Diaz fired his fifth shot.<sup>150</sup>

**c. Officer Diaz's fifth shot was justified under the second prong of CPD General Order 03-02-03.**

As explicitly stated in the second prong of the Chicago Police Department policy governing the use of deadly force a law enforcement officer is permitted to use deadly force against a person to prevent the defeat of an arrest by resistance or escape if the officer reasonably believes that the person:

- a. has committed or has attempted to commit a forcible felony which involves the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm;
- b. is attempting to escape by use of a deadly weapon or;
- c. otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay.

As explained above, Officer Diaz reasonably, albeit mistakenly, believed that the gunfire came from the Jaguar or at least from the direction of the Jaguar and logically connected that gunfire to [REDACTED] through his actions in the driveway/back yard of [REDACTED]—reaching for his waistband in a bladed position and refusing to stop and show his hands.

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<sup>148</sup> Att. 34.

<sup>149</sup> *Id.*

<sup>150</sup> IPRA interprets prong 1 of CPD General Order 03-02-03 in light of prong 2 of CPD General 03-02-03 which specifically addresses circumstances when officers are permitted to use deadly force to prevent the defeat of an arrest by resistance or escape. It is prong 2 of CPD General Order 03-02-03 that justifies deadly force based on a more general continued threat of death or great bodily harm that a suspect poses to the public at large under certain circumstances. To interpret prong 1 to encompass a general threat a suspect poses would make prong 2 entirely superfluous and is inconsistent with the language used. See *Chicago Teacher's Union, Local No. 1. v. Board of Education of the City of Chicago*, 2012 IL 112566, ¶ 15 ("Each word, clause, and sentence should be given effect so as not to be rendered superfluous.")

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Therefore, a reasonable officer would believe that [REDACTED] had both committed a forcible felony which involved the threatened infliction of death or great bodily harm and had attempted to escape by use of a deadly weapon. Furthermore, a reasonable officer would believe that [REDACTED] [REDACTED] would endanger human life or inflict great bodily harm unless arrested without delay. Therefore, deadly force could justifiably be used to prevent an arrest from being defeated by resistance or escape under Prong 2(a), Prong 2(b), and Prong 2(c) of CPD General Order 03-02-03.

The remaining inquiry is whether a reasonable officer under the circumstances confronting Officer Diaz would have believed deadly force was necessary to prevent [REDACTED] from defeating his arrest by resistance or escape. See *Klein v. Ryan*, 847 F.2d 368, 372 (7th Cir. 1988). The surveillance footage clearly corroborates Officer Diaz's statement that [REDACTED] was fleeing away from Officer Diaz who was attempting to arrest him.<sup>151</sup> At that time, Officer Diaz was alone, did not know the position of the other officers, and [REDACTED] had not complied with Officer Diaz's commands to show him his hands and stop.<sup>152</sup> Furthermore, at the time Officer Diaz likely fired the fifth shot, a fence that he couldn't climb over separated him from [REDACTED].<sup>153</sup> Although all cases are extremely fact specific, courts have found the use of deadly force to prevent escape justifiable in somewhat similar cases. See, e.g. *Klein*, 847 F.2d 368 (7th Cir. 1988) (finding that the officers were justified in using deadly force when a suspect they reasonably believed committed a burglary was fleeing in a vehicle); *Simmons v. City of Chicago*, 118 Ill. App. 3d 676, 683 (1st Dist. 1983) (holding that officer was justified in shooting at an escaping robbery suspect because the suspect was believed to be armed and the suspect refused to stop running despite the officer's warning); *LaMonte v. City of Belleville*, 41 Ill. App. 3d 697 (5th Dist. 1976) (finding that a police officer acted reasonably in shooting a suspect he reasonably believed the suspect had committed a robbery and he ran away from the officer despite an order to stop even when the subject having already been disarmed). IPRA finds that under the circumstances Officer Diaz faced, a reasonable officer would conclude that deadly force was necessary to prevent [REDACTED] from defeating arrest by resistance or escape. Therefore, Officer Diaz's fifth shot was justified under Prong 2(a), Prong 2(b), and Prong 2(c) of CPD General Order 03-02-03.

Although Officer Diaz did not expressly reference the second prong of CPD General Order 03-02-03 as justification for his use of deadly force in his statement to IPRA, his subjective reason for using deadly force is not the inquiry. The inquiry is whether Officer Diaz's use of force was *objectively* reasonable in light of the facts and circumstances confronting him. *Graham*, 490 U.S. 386, 397-99 (1989); Chicago Police Department General Order 03-02(III)(C)(2) ("The reasonableness of a particular use of force will be judged under the totality of the circumstances viewed from the perspective of a reasonable officer on the scene.") Officer Diaz clearly articulated the reasons he viewed [REDACTED] as a continued threat and the totality of Officer Diaz's statement to IPRA set forth that the necessary facts and circumstances were present to make his use of deadly force objectively reasonable under the second prong of CPD General Order 03-02-03. Consequently, Officer Diaz did not violate Rule 6 when he fired his weapon at or in the direction of [REDACTED].

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<sup>151</sup> Att. 34.

<sup>152</sup> Att. 338 at 26, 52-53, 58

<sup>153</sup> *Id.* at 83-84.

**2. Officer Diaz unjustifiably kicked [REDACTED] in violation of Rule 8 and Rule 9.**

Officer Torres' body camera footage depicts Officer Diaz kick at [REDACTED] in the backyard of [REDACTED] while [REDACTED] is lying on the ground surrounded by three other CPD officers.<sup>154</sup> Officer Diaz admitted he kicked [REDACTED] out of "anger, rage, [or] frustration."<sup>155</sup>

Officer Diaz's kick flagrantly violated CPD's use of force policy. [REDACTED] was not using or threatening the imminent use of force against himself/herself or another person; rather Mr. Diaz was lying face down on his stomach motionless surrounded by three CPD officers. Officer Diaz's kicked served absolutely no legitimate police purpose and "anger, rage, [or] frustration" can never justify the use of force.<sup>156</sup> Therefore, Officer Diaz unjustifiably kicked [REDACTED] in violation of Rule 8 and Rule 9.

**3. Officer Diaz brought discredit to the Chicago Police Department by stating words towards [REDACTED] to the effect of, "Bitch ass mother fucker" in violation of Rule 2.**

Officer Diaz admitted that he called [REDACTED] a "Bitch ass mother fucker" and his statement can also be heard on Officer Torres' body camera footage.<sup>157</sup> Officer Diaz stated he made the comment because of "anger and just you know just a lot of anger, frustration. It's a lotta emotions going through at that time."<sup>158</sup>

CPD officers are required to act professionally at all times.<sup>159</sup> Officer Diaz's statements were particularly inappropriate and offensive given that he had just shot [REDACTED] and [REDACTED] was lying motionless on the ground.<sup>160</sup> Officer Diaz's statement served no legitimate police purpose and showed a complete lack of respect for [REDACTED]. More is expected of CPD officers even under difficult and stressful circumstances. Therefore, Officer Diaz's statement, "Bitch ass mother fucker" violated Rule 2.

**4. Officer Diaz failed to activate his body camera as required by CPD Special Order S03-14.**

The evidence demonstrates that Officer Diaz did not activate his body camera until he exited the backyard of [REDACTED] after [REDACTED] was already in police custody and that his body worn camera was fully operational on July 28, 2016.<sup>161</sup> Officer Diaz admitted that his

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<sup>154</sup> Att. 177 at 2:38.

<sup>155</sup> Att. 338 at 65.

<sup>156</sup> *Id.*

<sup>157</sup> Att. 177 at 2:37; Att. 338 at 65.

<sup>158</sup> Att. 338 at 66.

<sup>159</sup> See Chicago Police Rule 2.

<sup>160</sup> Officer Diaz stated that he was unaware that [REDACTED] had been shot at the time he made the comment, but he should have been aware as he had just discharged five shots and [REDACTED] was lying motionless face down on the ground.

<sup>161</sup> Att. 180; Att. 253; Att. 338 at 97-98.

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camera should have been activated “the entire time,” but stated that he did not have time and forgot about it when the Jaguar drove towards his police vehicle at a high rate speed.<sup>162</sup> However, Officer Diaz should have already had his body camera activated well before encountering the Jaguar on Merrill Avenue.

CPD Special Order S03-14 requires that a body camera be activated in “any instance when enforcing the law” and during “emergency driving situations.”<sup>163</sup> Both Officer Diaz and Officer Baker stated that they were actively searching for the stolen Jaguar by driving around and using the LoJack system in their police vehicle.<sup>164</sup> A search for a stolen vehicle constitutes “enforcing the law” and Officer Diaz had ample time to turn on his body worn camera during this time. Moreover, Officer Baker and/or Diaz activated their police vehicles sirens and lights while searching for the stolen Jaguar. Therefore, Officer Diaz also should have activated his body worn camera because he was involved in an “emergency driving situation.”<sup>165</sup>

Officer Diaz’s failure to activate his body worn was not harmless. Although IPRA found no evidence that Officer Diaz intentionally failed to activate his body worn camera, it notes that Officer Diaz’s failure to activate his camera until after the shooting incident with [REDACTED] interfered with IPRA’s investigation and with the CPD’s goal of improving the quality and reliability of investigations and increasing transparency with the general public. Officer Diaz’s body worn footage would have provided additional pertinent information to this investigation.

IPRA finds that Officer Diaz violated CPD Special Order S03-14 when he did not activate his body camera until after the shooting incident.

## E. Analysis of the Allegations against Officer Baker

### 1. Officer Baker failed to activate his body camera as required by CPD Special Order, S03-14.

The evidence demonstrates that Officer Baker did not activate his body camera and that Officer Baker’s body worn camera was fully operational on July 28, 2016.<sup>166</sup> Officer Baker stated that he did not activate his camera because his focus was on safety and operating the police vehicle.<sup>167</sup> As explained above with Officer Diaz, Officer Baker had ample time to activate his body worn camera well before encountering the Jaguar on Merrill Avenue. Officer Baker was required to activate his camera both because he was enforcing the law and because he was involved in an emergency driving situation. Therefore, Officer Baker violated CPD Special Order S03-14 by failing to activate his body worn camera.

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<sup>162</sup> Att. 338 at 97-98.

<sup>163</sup> Chicago Police Department Special Order S03-14.

<sup>164</sup> Att. 319 at 46Att. 338 at 21-22;

<sup>165</sup> Att. 319 at 48-49, 51-52.

<sup>166</sup> Att. 253; Att. 319 at 109.

<sup>167</sup> Att.. 319 at 109.

V. **CONCLUSION**

After careful examination of the evidence and thorough analysis of the applicable law, IRPA recommends the following findings:

1. **Officer Coughlin**

**ALLEGATION #1:** Fired his weapon at or in the direction of [REDACTED], in violation of Rule 6 is **SUSTAINED**

**ALLEGATION #2:** Fired his weapon at or in the direction of [REDACTED], in violation of Rule 6 is **SUSTAINED**

**ALLEGATION #3:** Fired his weapon at and into a moving vehicle, in violation of Rule 6 is **SUSTAINED**.

**ALLEGATION #4:** Fired his weapon in the direction of Officer Torres in violation of Rule 10 is **SUSTAINED**.

**ALLEGATION #5:** Fired his weapon in the direction of Officer Baker, in violation of Rule 10 is **SUSTAINED**.

**ALLEGATION #6:** Fired his weapon in the direction of Officer Diaz, in violation of Rule 10 is **SUSTAINED**.

**ALLEGATION #7:** Stated words to the effect of, “Fuck, man I’m gonna be on the desk for thirty goddamn days now. Fucking desk duty for thirty days now. Motherfucker. I shot,” in violation of Rule 2 is **SUSTAINED**.

2. **Officer Torres**

**ALLEGATION #1:** Used his police vehicle to obstruct the passage of another motor vehicle, in violation of Rule 6 is **SUSTAINED**.

**ALLEGATION #2:** Fired his weapon at or in the direction of [REDACTED], in violation of Rule 6 is **SUSTAINED**.

**ALLEGATION #3:** Fired his weapon at or in the direction of [REDACTED], in violation of Rule 6 is **SUSTAINED**.

**ALLEGATION #4:** Fired his weapon at and into a moving vehicle, in violation of Rule 6 is **SUSTAINED**.

**ALLEGATION #5:** Fired his weapon in the direction of Officer Baker, in violation of Rule 10 is **SUSTAINED**.

**ALLEGATION #6:** Fired his weapon in the direction of Officer Diaz, in violation of Rule 10 is **SUSTAINED.**

**ALLEGATION #7:** Loaded his Glock, model 17, bearing serial #PMR357, with mismatched ammunition, in violation of Rule 10 is **SUSTAINED.**

**3. Officer Diaz**

**ALLEGATION #1:** Fired his weapon at or in the direction of [REDACTED], in violation of Rule 6 is **EXONERATED.**

**ALLEGATION #2:** Kicked [REDACTED], in violation of Rule 8 and Rule 9 is **SUSTAINED.**

**ALLEGATION #3:** Directed words towards [REDACTED] to the effect of, “Bitch ass motherfucker,” in violation of Rule 8 and 9 is **SUSTAINED.**

**ALLEGATION #4:** Failed to activate his body camera, in violation of Rule 6 is **SUSTAINED.**

**4. Officer Baker**

**ALLEGATION #1:** Failed to activate his body camera, in violation of Rule 6 is **SUSTAINED.**

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CONCLUSION AND FINDINGS:

Approved: [REDACTED]

Sharon R. Fairley  
Chief Administrator